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MONTANA LEGISLATIVE HISTORY

Chapter 488 1991

Bill H 388 S _____ Original bill & history ✓ C

H. Committee on	Business & Labor		S. Committee on	Business & Industry	
Hearing Date(s)	Feb 05	✓ C	Hearing Date(s)	Mar 13	✓ C
	Feb 07	✓ C		Mar 25	✓ C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Free Conference Committee

April 16

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

HB 386 INTRODUCED BY MOLNAR *LC0624 DRAFTER: STERNBERG*

CREATE A FAMILY ADVOCACY PROGRAM TO PROVIDE ASSISTANCE TO FAMILIES THAT ARE INVOLVED IN SITUATIONS OF STATE INTERVENTION IN FAMILY AFFAIRS

1/28	INTRODUCED		
1/28	FIRST READING		
1/28	REFERRED TO HUMAN SERVICES & AGING		
1/28	FISCAL NOTE REQUESTED		
2/03	HEARING		
2/03	FISCAL NOTE RECEIVED		
2/03	FISCAL NOTE PRINTED		
2/10	TABLED IN COMMITTEE		
2/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/24	2ND READING PASSED	63	36
2/26	3RD READING PASSED	65	35
	TRANSMITTED TO SENATE		
3/03	FIRST READING		
3/03	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/21	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/07	2ND READING CONCUR MOTION FAILED	21	28

HB 387 INTRODUCED BY SIMON *LC0863 DRAFTER: KURTZ*

REQUIRE THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ANNUALLY, BEFORE HATCHERY FISH STOCKING OCCURS, ISSUE FOR PUBLIC COMMENT INFORMATION ON ALL HATCHERY FISH STOCKING ACTIVITIES THAT THE DEPARTMENT PLANS TO CONDUCT

1/29	INTRODUCED		
1/29	FIRST READING		
1/29	REFERRED TO FISH, WILDLIFE & PARKS		
1/29	FISCAL NOTE REQUESTED		
2/05	FISCAL NOTE RECEIVED		
2/06	FISCAL NOTE PRINTED		
2/13	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	2ND READING PASSED	85	15
2/26	3RD READING PASSED	90	10
	TRANSMITTED TO SENATE		
3/03	FIRST READING		
3/03	REFERRED TO FISH & GAME		
3/07	REVISED FISCAL NOTE REQUESTED		
3/11	HEARING		
3/12	REVISED FISCAL NOTE RECEIVED		
3/12	REVISED FISCAL NOTE PRINTED		
3/14	TABLED IN COMMITTEE		
3/21	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/26	2ND READING CONCUR MOTION FAILED	15	34

HB 388 INTRODUCED BY SIMON, ET AL. *LC0534 DRAFTER: MACMASTER*

DEFINE AND REVISE BUILDING CODE LAW TERMS

1/29	INTRODUCED
1/29	FIRST READING
1/29	REFERRED TO BUSINESS & LABOR
1/29	FISCAL NOTE REQUESTED
2/04	FISCAL NOTE RECEIVED
2/04	FISCAL NOTE PRINTED
2/05	HEARING

2/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED AS AMENDED	55	45
2/15	3RD READING FAILED	49	49
2/15	RECONSIDERED PREVIOUS ACTION	61	37
2/18	3RD READING PASSED	55	44
	TRANSMITTED TO SENATE		
2/19	FIRST READING		
2/19	REFERRED TO BUSINESS & INDUSTRY		
3/07	REVISED FISCAL NOTE REQUESTED		
3/11	REVISED FISCAL NOTE RECEIVED		
3/11	REVISED FISCAL NOTE PRINTED		
3/13	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/04	2ND READING CONCURRED AS AMENDED	37	13
4/07	3RD READING CONCURRED	41	9
	RETURNED TO HOUSE WITH AMENDMENTS		
4/10	2ND READING AMENDMENTS CONCURRED	44	52
4/10	SEGREGATED FROM COMMITTEE OF WHOLE REPORT	55	40
4/11	2ND READING AMENDMENTS NOT CONCURRED	80	15
4/11	FREE CONFERENCE COMMITTEE APPOINTED		
4/16	HEARING		
4/16	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	83	16
4/18	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	79	20
	SENATE		
4/12	FREE CONFERENCE COMMITTEE APPOINTED		
4/17	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	0
4/18	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	45	4
4/22	SIGNED BY SPEAKER		
4/25	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
5/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 488		
	EFFECTIVE DATE: 07/01/98		

HB 389 INTRODUCED BY SIMON, ET AL. *LC0533 DRAFTER: MACMASTER*

PROVIDE FOR GREATER PUBLIC PARTICIPATION IN AGENCY RULEMAKING

1/29	INTRODUCED		
1/29	FIRST READING		
1/29	REFERRED TO JUDICIARY		
1/29	FISCAL NOTE REQUESTED		
2/05	FISCAL NOTE RECEIVED		
2/10	FISCAL NOTE PRINTED		
2/11	HEARING		
2/11	TABLED IN COMMITTEE		
2/21	TAKEN FROM COMMITTEE AND PLACED ON 2ND READING		
2/25	2ND READING PASSED AS AMENDED	69	17
2/26	3RD READING PASSED	71	28
	TRANSMITTED TO SENATE		
3/03	FIRST READING		
3/03	REFERRED TO STATE ADMINISTRATION		
3/07	REVISED FISCAL NOTE REQUESTED		
3/13	HEARING		

HOUSE BILL NO. 388

INTRODUCED BY DENNY

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING AND REVISING BUILDING CODE LAW TERMS; EXPANDING THE TYPES OF BUILDINGS EXEMPT FROM BUILDING CODES; EXPANDING THE DUTIES OF MUNICIPALITIES AND COUNTIES; PROVIDING THAT RULE CHANGES ARE OF SIGNIFICANT INTEREST TO THE PUBLIC; CHANGING PROVISIONS RELATING TO CERTIFICATION OF BUILDING CODES BY THE DEPARTMENT OF COMMERCE; AND AMENDING SECTIONS 50-60-101, 50-60-102, 50-60-106, 50-60-203, 50-60-204, AND 50-60-302, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-60-101, MCA, is amended to read:

"**50-60-101. Definitions.** As used in parts 1 through 4 and part 7 of this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Building" means a combination of any materials, whether mobile, portable, or fixed, to form a structure and the related facilities for the use or occupancy by persons or property. The word "building" ~~shall~~ must be construed as though followed by the words "or part or parts thereof".

(2) (a) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general or special, or compilation thereof enacted or adopted by the state or any municipality, including departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and installation of equipment in buildings.

(b) The term does not include zoning ordinances.

(3) "Code enforcement program" means the plan for enforcement of the building regulations adopted by a municipality or county and includes the local building department and the staff associated with executing any aspect of the program's purposes or functions.

~~(3)~~(4) "Construction" means the original construction and equipment of buildings and requirements or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.

~~(4)~~(5) "Department" means the department of commerce provided for in Title 2, chapter 15, part

18.

~~(5)~~(6) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

~~(6)~~(7) (a) "Factory-built building" means a factory-assembled structure or structures equipped with the necessary service connections but not made so as to be readily movable as a unit or units and designed to be used with a permanent foundation.

(b) "Factory-built building" does not include manufactured housing constructed after June 15, 1976, under the HUD, National Mobile Home Construction and Safety Act of 1974.

~~(7)~~(8) "Local building department" means the agency or agencies of any municipality charged with the administration, supervision, or enforcement of building regulations, approval of plans, inspection of buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required by state or local building regulations.

~~(8)~~(9) "Local legislative body" means the council or commission charged with governing the municipality.

~~(9)~~(10) "Municipality" means any incorporated city or town and its jurisdictional area as defined ~~by subsection (10) of~~ in this section.

~~(10)~~(11) ~~(a)~~ "Municipal jurisdictional area" means the area within the limits of an incorporated municipality ~~unless the area is extended at the written request of a municipality~~.

~~(b) Upon request, the department may approve extension of the jurisdictional area to include:~~

~~(i) all or part of the area within 4 1/2 miles of the corporate limits of a municipality;~~

~~(ii) all of any platted subdivision which is partially within 4 1/2 miles of the corporate limits of a municipality; and~~

~~(iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, which is partially within 4 1/2 miles of the corporate limits of a municipality.~~

~~(c) Distances shall be measured in a straight line in a horizontal plane.~~

~~(11)~~(12) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a building.

~~(12)~~(13) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own mode of power or is mounted

on or towed by another vehicle, including but not limited to a:

(a) travel trailer;

(b) camping trailer;

(c) truck camper; or

(d) motor home.

~~(13)~~(14) "State agency" means any state officer, department, board, bureau, commission, or other agency of this state.

~~(14)~~(15) "State building code" means the state building code provided for in 50-60-203 or any portion of the code of limited application and any of its modifications or amendments."

Section 2. Section 50-60-102, MCA, is amended to read:

"**50-60-102. Applicability.** (1) Except as provided in subsection (5), state building codes do not apply to:

(a) residential buildings containing less than five dwelling units or their attached-to structures, any farm or ranch building of any size, and any private garage or private storage structure of any size used only for the owner's own use, located within the municipality's or county's jurisdictional area, unless the local legislative body or board of county commissioners by ordinance or resolution makes the state building code applicable to these structures;

(b) mines and buildings on mine property regulated under Title 82, chapter 4, and subject to inspection under the Federal Mine Safety and Health Act; or

(c) petroleum refineries, industrial process facilities, the primary economic activity of which occurs at petroleum refineries, sugar beet refineries, primary metal smelters and refineries, gas and other fuels processing facilities, pulp and paper mills, cement plants, lime and mineral products plants, sulfur plants, chemical plants, power plants, or fertilizer manufacturing plants, except:

(i) a structure classified under chapter 7, section 701, group B, division 2, and chapter 9, section 901, group H, outside of process units, of the 1991 edition of the Uniform Building Code; or

(ii) a structure located outside of processing units and used for office, professional, or service-type transactions, including storage of records and accounts and a structure used for consumption of food and beverages.

(2) Except as provided in subsection (5), the state may not enforce the state building code under

50-60-205 for the buildings referred to in subsection (1). Local governments that have made the state building codes applicable to the buildings referred to in subsection (1) may enforce within their jurisdictional areas the state building code as adopted by the respective local government.

(3) When good and sufficient cause exists, a written request for limitation of the state building code may be filed with the department for filing as a permanent record.

(4) The department may limit the application of any rule or portion of the state building code to include or exclude:

(a) specified classes or types of buildings according to use or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable;

(b) specified areas of the state based upon size, population density, special conditions prevailing in the area, or other factors that make differentiation or separate classification or regulation necessary, proper, or desirable.

(5) (a) For purposes of promoting the energy efficiency of home design and operation, the provisions of the state building code relating to energy conservation adopted pursuant to 50-60-203(1) apply to residential buildings, except:

(i) farm and ranch buildings; and

(ii) any private garage or private storage structure attached to a residential building and used only for the owner's own use.

(b) The provisions of the state building code relating to energy conservation in residential buildings are enforceable:

(i) by the department only for those residential buildings containing five or more dwelling units or otherwise subject to the state building code; and

(ii) through the builder self-certification program provided for in 50-60-802 for those residential buildings containing less than five dwelling units and not otherwise subject to the state building code."

Section 3. Section 50-60-106, MCA, is amended to read:

"**50-60-106. Powers and duties of municipalities.** (1) The examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the municipal jurisdictional area ~~shall be~~ are the responsibility of the municipalities of the

state.

(2) Each municipality ~~may~~ or county certified under 50-60-302 shall, within its jurisdictional area:

(a) examine, approve, or disapprove plans and specifications for the construction of any building, the construction of which is pursuant or purports to be pursuant to the applicable provisions of the state or municipal building code, and direct the inspection of the buildings during and in the course of construction;

(b) require that construction of buildings be in accordance with the applicable provisions of the state or municipal building code, subject to the powers of variance or modification granted to the department;

(c) during and in the course of construction order in writing the remedying of any condition found to exist in, on, or about any building that is being constructed in violation of the applicable state or municipal building code. Orders may be served upon the owner or his authorized agent personally or by sending by registered or certified mail a copy of the order to the owner or his authorized agent at the address set forth in the application for permission for the construction of the building. ~~Any~~ A local building department, by action of an authorized officer, may grant in writing such time as may be reasonably necessary for achieving compliance with the order.

(d) issue certificates of occupancy~~,~~ as provided in 50-60-107;

(e) issue permits, licenses, and ~~such~~ other required documents in connection with the construction of ~~the buildings as required~~ a building;

(f) ensure that all construction-related fees or charges imposed and collected by the municipality or county are necessary, reasonable, and uniform and are:

(i) used only for building code enforcement, which consists of those necessary and reasonable costs directly and specifically identifiable for the enforcement of building codes, plus a maximum of an additional 10% of the identified direct costs to cover indirect costs; and

(ii) reduced if the amount of the fees or charges accumulates above the amount needed to enforce building codes for 6 months. The excess must be placed in a reserve account and may only be used for building code enforcement. Collection and expenditure of fees and charges must be fully documented.

(3) Each municipality or county certified under 50-60-302 may, within its jurisdictional area:

~~(c)~~(a) make, amend, and repeal rules for the administration and enforcement of the provisions of this section and for the collection of ~~reasonable~~ fees~~, which shall be comparable to fees imposed or~~

~~prescribed by existing local building regulations~~ and charges related to construction;

~~(i)~~(b) prohibit the commencement of construction until a permit has been issued by the local building department after a showing of compliance with the requirements of the applicable provisions of the state or municipal building code; and

(c) enter into a private contract with the owner or builder of a building that is not or will not be within the jurisdiction of the municipality or county under which the municipality or county will provide reviews, inspections, orders, and certificates of occupancy for a fee and under conditions agreed upon by the parties. Municipal or county powers of enforcement may not be exercised."

Section 4. Section 50-60-203, MCA, is amended to read:

"**50-60-203. Department to adopt state building code by rule.** (1) (a) The department shall adopt rules relating to the construction of, the installation of equipment in, and standards for materials to be used in all buildings or classes of buildings, including provisions dealing with safety, sanitation, and conservation of energy. ~~The department may amend or repeal the rules.~~ The adoption, amendment, or repeal of a rule is of significant public interest for purposes of 2-3-103.

(b) ~~In adopting rules~~ Rules concerning the conservation of energy~~, the department shall~~ must conform ~~those rules~~ to the policy established in 50-60-801 and to relevant policies developed under the provisions of Title 90, chapter 4, part 10.

(2) The department may adopt by reference nationally recognized building codes in whole or in part ~~, but this does not prevent the department from adopting~~ and may adopt rules more stringent than those contained in national codes.

(3) The rules, when adopted as provided in parts 1 through 4, constitute the "state building code" and are acceptable for the buildings to which they are applicable.

(4) The department shall adopt rules that permit the installation of below-grade liquefied petroleum gas-burning appliances in single-family dwellings."

Section 5. Section 50-60-204, MCA, is amended to read:

"**50-60-204. Public hearing required -- effective date of certain rules.** (1) Except as provided in subsection (2), a rule, amendment, or repeal of the state building code is a matter of significant public interest for purposes of 2-3-103 and may not take effect until after a public hearing by the department.

(2) If a hearing with adequate public notice pursuant to 2-3-103 has been held by the department of justice with respect to the duties contained in chapter 3 of this title or by the board of plumbers, the department of public health and human services, or the state electrical board on a proposed rule relating to building and equipment standards in their respective fields, a public hearing by the department is not required. The proposed rule is effective upon approval of the department and filing with the secretary of state as a part of the state building code."

Section 6. Section 50-60-302, MCA, is amended to read:

"**50-60-302. Certification of municipal and county building codes.** (1) A county or municipality may not enforce a building code unless:

(a) the code enforcement program has been certified by the department as in compliance with all applicable statutes and department certification rules;

(b) the ~~code adopted~~ current adopted code, a current list of fees to be imposed, and a current plan for enforcement of the code have been filed with and approved by the department~~.~~; and

(c) all inspectors inspecting or approving any installations, which if accomplished commercially require state licensure, must themselves be properly and currently state-licensed as journeymen in that craft or occupation before being permitted to inspect or approve any installations.

(2) The department shall ~~set forth~~ adopt additional rules and standards governing the certification of municipal and county building code enforcement programs ~~as required in subsection (1)~~ which must include provisions for prompt revocation of certification for lack of compliance with any applicable statute or rule. The rules and standards must include provisions for the department to ensure that all code enforcement program functions are being properly performed at all times.

(3) In addition to maintaining the continued compliance oversight required in subsection (1), the department shall conduct a detailed and fully documented annual review to ensure continued local government compliance with all requirements of applicable statutes and rules.

(4) If the certification of any local government code enforcement program is revoked for any violation or deficiency, the state resumes its original jurisdiction for state building code enforcement within the municipal or county area and the local government may not be permitted to continue to exercise any building code enforcement authority over incomplete construction projects."

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0388, as introduced

ESCRIPTION OF PROPOSED LEGISLATION:
bill for an act defining and revising building code law terms; expanding the types of uildings exempt from building codes; expanding the duties of municipalities and counties; roviding that rule changes are of significant interest to the public; changing provisions elating to certification of building codes by the Department of Commerce.

SSUMPTIONS:
epartment of Commerce/Building Codes Bureau:

1. Passage of HB 388 will result in the nine municipalities with extended municipal building codes enforcement jurisdictions (extended jurisdictions) losing authority to enforce building codes in their extended jurisdictions and the responsibility for issuing building, mechanical, plumbing and electrical permits and completing the required inspections in those lost extended jurisdictions will return to the Department of Commerce (DOC), Building Codes Bureau.
2. A survey was conducted of the nine municipalities with extended jurisdiction to determine the number of building permits issued in fiscal year 1996 for new buildings other than four-plexes or less. Elimination of the extended jurisdictions will result in an annual increase to the bureau's workload of 250 building, 200 mechanical, 800 plumbing and 900 electrical permits, with associated plan review and inspection responsibilities.
3. HB 388 requires licensed plumbers and electricians to conduct local government plumbing and electrical installation inspections on commercial installations, respectively. The bureau anticipates that an additional 12 certified local government building codes enforcement programs (certified local programs) decertifying for plumbing code enforcement and five certified local programs decertifying for electrical code enforcement.
4. The certified local program decertification for plumbing and electrical code enforcement is expected to result in an annual increase to the bureau's workload of 500 plumbing permits and 200 electrical permits, with associated inspection responsibilities.
5. HB 388 requires the rigorous annual auditing of certified local code enforcement programs and limits eligible program costs and reserves and will result in an estimated 20-25 certified local programs voluntarily or involuntarily decertifying, beyond those decertifying for lack of licensed plumbing and electrical inspectors.
6. State assumption of the jurisdiction and code enforcement responsibilities in the eliminated extended jurisdictional areas, in the certified local programs expected to decertify for plumbing and electrical code enforcement because of lack of licensed inspectors, and the auditing requirement created by HB 388 will require 9.00 FTE. The estimated need would be 6.00 FTE inspectors (2 electrical, 3 plumbing/mechanical, and 1 building), grade 14, 1.00 FTE plan reviewer, grade 15, 1.00 FTE auditor, grade 12, and 1.00 FTE clerical position, grade 8, to handle the additional permitting, inspecting, and auditing activities. The estimated personal services costs for the 9.00 FTE is $273,281 in fiscal year 1998 and fiscal year 1999.
7. Additional operating expenses are estimated at $67,238 in both fiscal year 1998 and fiscal year 1999 and six additional vehicles will be required in fiscal year 1998 for the new inspectors at an estimated cost of $78,000.

(Continued)

Dave Lewis 2-3-97

LEWIS, BUDGET DIRECTOR DATE
ce of Budget and Program Planning

BRUCE SIMON, PRIMARY SPONSOR DATE

Fiscal Note for HB0388, as introduced

HB 388

8. The FTEs and cost estimates included in this fiscal note assume that none of the major certified local programs, i.e., Billings, Bozeman, Missoula, Kalispell, Great Falls, Helena, or Butte-Silver Bow County, will voluntarily or involuntarily decertify during the 1999 biennium. If even one of the major certified local programs decertifies or is decertified, additional inspector, plan reviewer, and clerical FTEs will be needed immediately and additional personal services, operating, and equipment costs will be incurred.
9. Revenues from the additional permitting and inspections fees are expected to be sufficient to cover the anticipated code enforcement and auditing costs.

FISCAL IMPACT:

Department of Commerce/Building Codes Bureau:

Expenditures:

	FY98 Difference	FY99 Difference
FTE	9.00	9.00
Personal Services	273,281	273,281
Operating Expenses	67,238	67,238
Equipment	78,000	0
Total	418,519	340,519
Revenues:		
Building Permit Fees (02)	342,500	342,500
Net Impact:		
Building Codes SSR (02)	(76,019)	1,981

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. Loss of the extended jurisdiction areas will result in a substantial loss of revenue from permit fees to the Cities of Billings, Bozeman, Columbia Falls, Kalispell and Missoula and some loss of revenues from permit fees to the Cities of Deer Lodge, Fort Benton, Miles City, and Whitefish. In total, revenue from issuance of approximately 1,000 building, 800 mechanical, 800 plumbing and 900 electrical permits will be lost annually to the nine cities that have extended jurisdictions.
2. Loss of certification for electrical and plumbing code enforcement for the 12 cities expected to decertify rather than comply with the requirement to have licensed electricians and plumbers doing electrical and plumbing code enforcement on commercial installations, will result in substantial annual loss of revenue from permit fees from a total of 500 plumbing and 200 electrical permits. For those cities that do not decertify, additional costs will be experienced by the requirement to hire licensed plumbers and electricians to do plumbing and electrical code enforcement.
3. Loss of permit fee revenues will result from the additional industries exempted from state and local codes enforcement, e.g., sugar beet refineries, primary metal smelters and refineries, gas and other fuels processing facilities, pulp and paper mills, cement plants, lime and mineral products plants, sulfur plants, chemical plants, power plants, and fertilizer manufacturing plants.
4. If "construction-related fees or charges" includes fees unrelated to building code enforcement, i.e., building, mechanical, plumbing or electrical permit fees, such as system development fees, the limitations may adversely affect local government's ability to raise revenue to maintain infrastructure.

TECHNICAL NOTES:

1. Loss of the extended jurisdiction areas may have a public health impact because approximately 800 single family dwellings in four-plexes and less will no longer receive building and mechanical permits and inspections for compliance with minimum codes.

(Continued)

2. Because of the larger areas served, state code enforcement is less efficient and inspections are less timely than local government code enforcement; therefore, loss of extended jurisdiction areas may result in less service for building owners/contractors.
3. Exemption of the 10 additional major industries from the need to comply with state and local building codes may expose employees to greater risk due to noncompliance with minimum codes and may put local fire department firefighters at risk while fighting fires at facilities that do not comply with minimum codes.
4. Exemption of the 10 additional major industries from the need to comply with state and local building codes may result in less plumber and electrician license law enforcement since such license law enforcement typically only happens during normal inspections for code compliance.
5. HB 388 contains auditing requirements which limits program eligible costs and may discourage cities, towns, and particularly counties from assuming the responsibility of local building code enforcement and may result in as many as 20-25 currently certified local code enforcement programs voluntarily decertifying.
6. HB 388 limits when a local building official can order a building owner to correct observed code violations. Language in HB 388 prohibits inspectors from ordering code violations corrected once construction is completed. This places a significant liability on inspectors in that they may be required to issue certificates of occupancy for buildings with known code deficiencies.
7. HB 388 appears to include local system development fees and charges in building permit program related fees because of the wording "construction-related fees or charges" in amendments to 50-60-106(2)(f), MCA, instead of using the words "building permit fees". If such system development fees (unrelated to building code enforcement) are included in the code enforcement programs budget and reserves limited to 6 months, the proposed legislation may have the effect of forcing reduction of system development fees.
8. Should a large certified local program such as Billings, Bozeman, Missoula, Kalispell, Great Falls, Helena, or Butte-Silver Bow County become decertified, the bureau will be unable to absorb the additional code enforcement workload unless allowed to hire additional inspectors, plan reviewers and clerical staff immediately.

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0388, third reading

DESCRIPTION OF PROPOSED LEGISLATION:
A bill for an act defining and revising building code law terms; expanding the types of buildings exempt from building codes; expanding the duties of municipalities and counties; providing that rule changes are of significant interest to the public; changing provisions relating to certification of building codes by the Department of Commerce.

ASSUMPTIONS:
1. Passage of HB 388 will result in the nine municipalities with extended municipal building codes enforcement jurisdictions (extended jurisdictions) losing authority to enforce building codes in their extended jurisdictions and the responsibility for issuing building, mechanical, plumbing and electrical permits and completing the required inspections in those lost extended jurisdictions will return to the Department of Commerce (DOC), Building Codes Bureau.
2. Elimination of the extended jurisdictions will result in an annual increase to the bureau's workload of 250 building, 200 mechanical, 800 plumbing and 900 electrical permits, with associated plan review and inspection responsibilities.
3. HB 388 requires licensed plumbers and electricians to conduct local government plumbing and electrical installation inspections on commercial installations, respectively. The bureau anticipates that an additional 12 certified local government building codes enforcement programs (certified local programs) decertifying for plumbing code enforcement and five certified local programs decertifying for electrical code enforcement.
4. The certified local program decertification for plumbing and electrical code enforcement is expected to result in an annual increase to the bureau's workload of 500 plumbing permits and 200 electrical permits, with associated inspection responsibilities.
5. HB 388 requires the rigorous annual auditing of certified local code enforcement programs and limits eligible program costs and reserves and will result in an estimated 20-25 certified local programs voluntarily or involuntarily decertifying, beyond those decertifying for lack of licensed plumbing and electrical inspectors.
6. State assumption of the jurisdiction and code enforcement responsibilities in the eliminated extended jurisdictional areas, in the certified local programs expected to decertify for plumbing and electrical code enforcement because of lack of licensed inspectors and the auditing requirement created by HB 388 will require an additional 9.00 FTE. The estimated need would be 6.00 FTE inspectors (two electrical, three plumbing/mechanical, and one building), grade 14, 1.00 FTE plan reviewer, grade 15, 1.00 FTE auditor, grade 12, and 1.00 FTE clerical position, grade 8, to handle the additional permitting, inspecting, and auditing activities. The estimated personal services cost for the 9.00 FTE is $273,281 in fiscal year 1999.
7. Additional operating expenses are estimated at $67,238 and 6 additional vehicles will be required for the new inspectors at an estimated cost of $78,000.
8. The FTEs and cost estimates included in this fiscal note assume that none of the major certified local programs, i.e., Billings, Bozeman, Missoula, Kalispell, Great Falls, Helena, or Butte-Silver Bow County, will voluntarily or involuntarily decertify during the 1999 biennium. If even one of the major certified local programs decertifies or is decertified, additional inspector, plan reviewer, and clerical FTEs will be needed immediately and additional personal services, operating, and equipment costs will be incurred.
9. Revenues from the additional permitting and inspections fees are expected to be sufficient to cover the anticipated code enforcement and auditing costs.

(Continued)

Dave Lewis 3-11-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

BRUCE SIMON, PRIMARY SPONSOR DATE

Fiscal Note for HB0388, third reading

Am. HB 388-#2

FISCAL IMPACT:

Department of Commerce/Building Codes Bureau:

Expenditures:	FY98 Difference	FY99 Difference
FTE	0	9.00
Personal Services	0	273,281
Operating Expenses	0	67,238
Equipment	0	78,000
Total	0	418,519
Revenues:		
Building Permit Fees (02)	0	342,500
Net Impact:		
Building Codes SSR (02)	0	(76,019)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. Loss of the extended jurisdiction areas will result in a substantial loss of revenue from permit fees to the Cities of Billings, Bozeman, Columbia Falls, Kalispell, and Missoula and some loss of revenues from permit fees to the Cities of Deer Lodge, Fort Benton, Miles City, and Whitefish. In total, revenue from issuance of approximately 1,000 building, 800 mechanical, 800 plumbing and 900 electrical permits will be lost annually to the 9 cities that have extended jurisdictions.
2. Loss of certification for electrical and plumbing code enforcement for the 12 cities expected to decertify rather than comply with the requirement to have licensed electricians and plumbers doing electrical and plumbing code enforcement on commercial installations, will result in substantial annual loss of revenue from permit fees from a total of 500 plumbing and 200 electrical permits. For those cities that do not decertify, additional costs will be experienced by the requirement to hire licensed plumbers and electricians to do plumbing and electrical code enforcement.
3. Loss of permit fee revenues will result from the additional industries exempted from state and local codes enforcement, i.e., sugar beet refineries, primary metal smelters and refineries, gas and other fuels processing facilities, pulp and paper mills, cement plants, lime and mineral products plants, sulfur plants, chemical plants, power plants and fertilizer manufacturing plants.
4. If "construction-related fees or charges" include fees unrelated to building code enforcement, i.e., building, mechanical, plumbing or electrical permit fees, such as system development fees, the limitations may adversely affect local government's ability to raise revenue to maintain infrastructure.

TECHNICAL NOTES:

1. Loss of the extended jurisdiction areas may have a public health impact because approximately 800 single family dwellings in 4-plexes and less annually will no longer receive building and mechanical permits and inspections for compliance with minimum codes.
2. Because of the larger areas served, state code enforcement is less efficient and inspections are less timely than local government code enforcement; therefore, loss of extended jurisdiction areas may result in less service for building owners/contractors.
3. Exemption of the 10 additional major industries from the need to comply with state and local building codes may expose employees to greater risk due to noncompliance with minimum codes and may put local fire department firefighters at risk while fighting fires at facilities that do not comply with minimum codes.
4. Exemption of the 10 additional major industries from the need to comply with state and local building codes may result in less plumber and electrician license law enforcement since such license law enforcement typically only happens during normal inspections for code compliance.
5. HB 388 contains auditing requirements which limit program eligible costs and may discourage cities, towns, and particularly counties from assuming the responsibility of local building code enforcement and may result in as many as 20-25 currently certified local code enforcement programs voluntarily decertifying.

(Continued)

6. HB 388 limits when a local building official can order a building owner to correct observed code violations. Language in HB 388 prohibits inspectors from ordering co violations corrected once construction is completed. This places a significant liability on inspectors in that they may be required to issue certificates of occupancy for buildings with known code deficiencies.
7. HB 388 appears to include local system development fees and charges in building permit program related fees because of the wording "construction-related fees or charges" in amendments to 50-60-106(2)(f), MCA, instead of using the words "buildin permit fees". If such system development fees (unrelated to building code enforcement) are included in the code enforcement programs budget and reserves limited to 6 months, the proposed legislation may have the effect of forcing reduction of system development fees.
8. Should a large certified local program such as Billings, Bozeman, Missoula, Kalispell, Great Falls, Helena or Butte-Silver Bow County become decertified, the bureau will be unable to absorb the additional code enforcement workload unless allowed to hire additional inspectors, plan reviewers and clerical staff immediatel

{Tape: 1; Side: 2; Approx. Time Count: 21.6; Comments: None.}

Boyd VanderBerg-Auto Parts Store Owner. EXHIBIT 9.
{Tape: 1; Side: 2; Approx. Time Count: 22.3; Comments: None.}

Robert Garding, Mace Auto Parts. EXHIBIT 10.
{Tape: 1; Side: 2 Approx. Time Count: 25.0; Comments: None.}

Calvin Flink, Missoula Motor Parts. EXHIBIT 11.
{Tape: 1; Side: 2; Approx. Time Count: 27.1; Comments: None.}

Opponents' Testimony: None

Questions From Committee Members and Responses:
{Tape: 1; Side: 2; Approx. Time Count: 29.0; Comments: None.}

Closing by Sponsor:**Rep. Mercer** closed.
{Tape: 1; Side: 2; Approx. Time Count: 30.7; Comments: None.}

HEARING ON HB 388

Opening Statement by Sponsor: **Rep. Bruce Simon,** H. D. 18 introduced the bill. **EXHIBIT 12, 13, 14, 15, 16, 17 AND 18.**
{Tape: 1; Side: 2; Approx. Time Count: 31.8; Comments: None.}

Proponents' Testimony:
Steve Wyatt, Bozeman, MT.
{Tape: 2; Side: 1; Approx. Time Count: 23.3; Comments: Exhibit 19 not turned in.}

Jim Stevenson, Unifield Engineering
{Tape: 2; Side: 1; Approx. Time Count: 29.2; Comments: None.}

Don Chance, MT Building Assn. EXHIBIT 1.
{Tape: 2; Side: 1; Approx. Time Count: 32.3; Comments: None.}

Mary Westwood, Dir. Public Relations for Montana Sulphur. EXHIBIT 20.
{Tape: 2; Side: 1; Approx. Time Count: 40.1; Comments: None.}

Mike Lahr, Montana Power Co.. EXHIBIT 21.
{Tape: 2; Side: 2; Approx. Time Count: .6; Comments: None.}

Gay Rye, Billings Home Builders Assn.
{Tape: 2; Side: 2; Approx. Time Count: 1.5; Comments: None.}

Larry Brown, Ag Preservation Assn.
{Tape: 2; Side: 2; Approx. Time Count: 6.8; Comments: None.}

Paul Stanton, Milltown Mt Publisher. EXHIBIT 22.
{Tape: 2; Side: 2; Approx. Time Count: 8.8; Comments: None.}

Mike Rathburn, City of Great Falls, MT EXHIBIT 23.
{Tape: 2; Side: 2; Approx. Time Count: 10.8; Comments: None.}

Paul Gerber, Billings Fire Dept.
{Tape: 2; Side: 2; Approx. Time Count: 12.3; Comments: None.}

John Levien, Fire Dept., City of Kalispell
{Tape: 2; Side: 2; Approx. Time Count: 15.3; Comments: None.}

Jim Tillotson, City Attorney, Billings, MT
{Tape: 2; Side: 2; Approx. Time Count: 19.3; Comments: None.}

Alex Hanson, MT League of Cities and Towns. EXHIBIT 24.
{Tape: 2; Side: 2; Approx. Time Count: 28.1; Comments: None.}

Jim Kennel, Mr. Technical Council. EXHIBIT 25.
{Tape: 2; Side: 2; Approx. Time Count: 36.4; Comments: None.}

David Hoffman, City of Dillon Attorney
{Tape: 2; Side: 2; Approx. Time Count: 39.2; Comments: None.}

Bruce Bender, Division Public Works, Missoula. EXHIBIT 26.
{Tape: 3; Side: 1; Approx. Time Count: .3; Comments: None.}

Kim Palmieri, City of Billings. EXHIBIT 26.
{Tape: 3; Side: 1; Approx. Time Count: 4.2; Comments: None.}

Larry Moore, Mayor East Helena
{Tape: 3; Side: 1; Approx. Time Count: 11.0; Comments: None.}

Mike Matthew, Yellowstone County Commissioner
{Tape: 3; Side: 1; Approx. Time Count: 12.8; Comments: None.}

Neal Polsen, Building Official, City of Bozeman EXHIBIT 31.
{Tape: 3; Side: 1; Approx. Time Count: 18.3; Comments: None.}

Terry Casey, City of East Helena
{Tape: 3; Side: 1; Approx. Time Count: 25.4.}

Craig Kensman, Kalispell Building Dept. EXHIBIT 27 AND 28.
{Tape: 3; Side: 1; Approx. Time Count: 26.4; Comments: None.}

Informational Testimony:
Bill Ream, Chief Missoula Rural Fire Dept. EXHIBIT 29 AND 30.
{Tape: 3; Side: 1; Approx. Time Count: 32.0; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 3; Side: 1; Approx. Time Count: 33.2; Comments: None.}

Closing by Sponsor: **Rep. Simon** closed. **EXHIBIT 32, 33 AND 34.**
{Tape: 3; Side: 2; Approx. Time Count: 4.9; Comments: None.}

EXHIBIT 12
DATE 2/5/97
HB 388

Amendments to House Bill No. 388
First Reading Copy

Requested by Rep. Simon
For the Committee on Business and Labor

Prepared by John MacMaster
February 1, 1997

1. Title, line 8.
Strike: "AND"

2. Title, line 9.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 3, line 21.
Strike: "petroleum refineries,"
Following: "facilities"
Strike: ","

4. Page 3, lines 24 through 27.
Strike: ";" on line 24 through "(ii)" on line 27

5. Page 7, line 30.
Insert: "NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 1997."

EXHIBIT 13
DATE 2/5/97
HB 388

Dear Representitive Bruce Simon, & HB369

I heartily endorse H. B. 388 and encourage your committee to pass it as it stands.

Cities should have no authority to govern those of us who do not vote in their City Elections. We removed one Building Department only to get another that we cannot legally even vote on to remove. It is UNCONSTITUTIONAL and should be resinded as early as possible.

I further encourage you to restrict any municipality from charging exhorbitant "California" permit fees and using their Building Departments as Revenue Generating schemes to enhance their General Funds. Please pass Bills 388 and 369

Thank-you
Douglas Hebb

1. Kord L Mercal
2. Sissi Mercal
3. Helen Hebb
4. Jon Blume
5. Jerry O'Neil

EXHIBIT 14
DATE 2/5/97
HB 388

UNIFIELD ENGINEERING, INC.
2626 LILLIAN AVENUE
BILLINGS, MONTANA 59101
U.S.A.
FAX: 406-245-7112
TEL: 406-245-4485

February 3, 1997

Representative Bruce Simon, Chair
House Business and Labor Committee
217 Clark Avenue
Billings, MT 59101

SEND VIA FAX (406) 444-3036

Re: HB-388 LETTER OF SUPPORT
INDUSTRIAL EXCLUSIONS FROM UNIFORM BUILDING CODE

Dear Representative Simon:

Please accept this letter as an endorsement by UniField Engineering, Inc. of the portion of House Bill 388 that excludes process industries from the Uniform Building Code. Process industries are regulated by several other government agencies, such as the Occupational Safety and Health Administration, to insure worker and equipment safety. UniField acknowledges and supports the need to ensure the health, safety and welfare of Montana citizens, but believes that forcing industrial facilities to comply with public access requirements is inappropriate. Access to these facilities are restricted to people who have been properly trained of potential hazards inherent to those industries.

UniField's experience in facility design at many of these sites has shown that the building permit and inspection process accomplishes nothing that is not already being done by compliance with various state and federal regulations. In addition to regulations, proven industrial codes such as those developed by the American Society of Mechanical Engineers (ASME), American Standard for Testing Materials (ASTM) and the Uniform Fire Code (UFC) insure the safety of our workers and assets. The permitting and inspection process serves only to slow project development, consume time and effort of our project engineers, and increase costs. The higher project costs and delays affect not only the industries, but the small business owners, such as myself, who support them.

Finally, the revised language eliminates the possibility of the Building Construction Standards becoming outdated, as is currently the case with reference to the 1991 UBC instead of the currently adopted 1994 version.

Thank you for your consideration of this bill.

Respectfully Submitted,

James A. Stevenson, P.E.
President

EXHIBIT 15
DATE 2/5/97
HB 388

Government Affairs

4 February, 1997

Representative Bruce Simon
214 Clark Avenue
Billings, MT 59101

Reference: HB 388

Dear Representative Simon:

I would like to take this opportunity on behalf of Stillwater Mining Company to voice our support for HB-388. Stillwater Mining Company is the only primary producer of Platinum Group Metals in the Western Hemisphere. The Company recently completed construction of its Base Metals Refinery (BMR) located in Columbus Montana.

In designing this facility, the Company was tasked with following standards promulgated by OSHA, ANSI, NFPA and the UBC. It is our view that the industry specific standards set by OSHA and NFPA provide a greater measure of safety than the more generic UBC. Conflicts with the UBC are inevitable and resolution of these conflicts results in added costs without added value.

Stillwater Mining Company places the highest possible emphasis on employee and community safety. OSHA has recognized the Company's commitment to safety by exempting the Smelter from inspections under the Agency's SHARP program.

We believe that lifting the burden of the UBC from smelting facilities will lower costs without negative impacts to health and safety. Stillwater Mining Company unreservedly supports HB-388.

Sincerely,

Christopher Allen
Director of Safety, Organizational Development and Government Affairs

ASARCO

EXHIBIT 16
DATE 2/5/97
HB 388

February 4, 1997

Mr. Bruce Simon
State Representative
217 Clark
Billings, MT 59101

RE: Proposed Legislation- House Bill #388 - Uniform Building Code- Exclusion for Process Industries.

Dear Mr. Simon,

This letter is written in support of House Bill #388. Under current state law, our plant is required to obtain a City of East Helena building permit for all construction for compliance with the Uniform Building Code (U.B.C.). We have experienced numerous negative impacts because of these requirements;

- Delays in construction schedules, an extensive burden of time.
- Demand with engineering design and construction management.
- Redundancy in providing engineering design standards.
- Negative financial impact for construction projects.

The ASARCO, Inc. East Helena Lead Smelter uses industry standard engineering design criteria for all field installation projects to ensure quality construction and provide a safe work environment for our employees. These are the national engineering codes that our plant complies with;

- OSHA- Occupational Safety and Health Administration
- UFC - United States Code
- ASME- American Society of Mechanical Engineers
- ASTM- American Society of Testing and Materials
- ANSI - American National Standards Institute
- ASCE - American Society of Civil Engineers
- NFPA - National Fire Protection Association

These codes have a direct application for design and construction in our industry, which are incorporated by our professional engineers registered in the State of Montana.

ASARCO Incorporated, P.O. Box 1230, East Helena, MT 59635
(406) 227-7100
Fax No: (406) 227-8897

EXHIBIT 16 pg 2
DATE 2/5/97
HB 388

The Uniform Building Code does not apply to many of the design criteria required for our process facilities. The codes have a direct application for residential and commercial construction along with its purpose to provide safe structures for the general public.

The East Helena Smelter strongly supports this proposed change included in House Bill #388 to eliminate this burdensome, redundant, and costly requirement associated with the Uniform Building Code.

We thank you for your time and effort in supporting this legislation.

John R. Shaw
Plant Manager

cc: Darrell Shew, Plant Engineer, ASARCO, Inc.

Western Sugar

EXHIBIT 17
DATE 2/5/97
HB 388

January 31, 1997

The Western Sugar Company
1700 Broadway
Suite 1600
Denver, Colorado 80290-1601
(303) 830-3939
Fax: (303) 830-3940

Representative Bruce Simon
214 Clark Avenue
Billings, MT 59101

Dear Representative Simon:

My name is Jack A. Fulton, Director of Government Relations for the Western Sugar Company, based in Denver, Colorado.

Western Sugar owns and operates a Sugar Beet Processing plant in Billings, Montana. The Billings plant employs 112 full time employees and an additional 200 seasonal employees during our campaign season. Our Billings payroll is in excess of five million dollars annually and the plant has a direct economic impact in the community of approximately fifty million dollars per year.

I am writing in support of HB388, a bill to exclude process industries from the Uniform Building Code.

In our case, the process is mainly just an additional tax. We are required to obtain building permits but rarely, if ever are the facilities inspected. This is primarily due to lack of manpower and expertise by the inspection office.

Our facilities will continue to be subject to OSHA, EPA and NFPA requirements. More importantly, our customers, our employees, and Western itself want and demand a safe working environment.

The AIB inspects our facilities on behalf of our customers as well as customers themselves. Our employee committees which has a great sense of ownership does weekly inspections and finally our insurance carriers look at our facilities and equipment very closely.

Manufactures and processors should be excluded from the UBC.

Thank you for your consideration.

Sincerely,

Jack A. Fulton

Jack A. Fulton
Director of Government Relations

cc: Ms. Linda Thompson
Mr. Roger Dallner

Printed on Recycled Paper

EXHIBIT 18
DATE 2/3/97
HB 388

Flathead County
Board of Commissioners

(406) 758-5503

Howard W. Gipe
Robert W. Watne
Dale W. Williams

February 3, 1997

Bruce Simon, Chair
Business & Labor Committee

RE: House Bill 388

Mr. Chairman and Members of the Committee:

We have reviewed HB 388 and wish to make the following comments on its content.

In reviewing Section 3, 50-60-102, C and C2 P.3., we question the wisdom of excluding those structures in which the public would be working in or have reason to be present at for transactions. It would seem that a higher standard should be held toward public use buildings.

In reviewing Section 3, 50-60-106 2e-f2 on Page 5, we are in concurrence in the establishment of trust accounts and full disclosure and documentation of fees assessed and collected.

In reviewing Section 1, 50-60-101, 10 and 11, we are in agreement with the proposed definitions.

I have a unique perspective in that I was involved 20+ years ago in the "extra-territorial" discussion which is now seeking to be addressed. While the argument can be made and easily understood that the extension of jurisdiction is needed in order that future annexations are cost-effective, I believe that now to be a false argument.

The most important and dominating consideration must be given to whether in fact citizens outside of city limits have likelihood of redress, or the city is held to an accountable position through its actions outside of the incorporated city limits. With those individuals so affected they have no right to vote within the city jurisdiction, they have little ability to be heard seriously on new fee assessments or raises, and thus no right of redress.

This becomes the larger and most important constitutional issue - the right of no taxation (in this case, fees and jurisdiction) without representation.

We respectfully urge your PASSAGE of HB 388.

Sincerely,
BOARD OF COMMISSIONERS
FLATHEAD COUNTY, MONTANA

Dale W. Williams
District 1
Board of County Commissioners

EXHIBIT 20
DATE 2-5-97
HB 388

February 4, 1997

Representative Bruce Simon, Chairman
Business and Labor Committee
Montana House of Representatives
State Capitol
Helena, MT 59620

Dear Representative Simon:

This letter is to give strong support to House Bill #388.

I, along with my family, own and operate a ranch that is within the 4 1/2 mile jurisdictional area of Bozeman, as referred to in 50-60-101 MCA. My children are the fourth generation on this ranch which my grandfather acquired after locating in the Gallatin valley 130 years ago.

I am a former Gallatin County Commissioner and Assessor with 22 years of past elected service. I was a member of the County Planning and Zoning Commission for 17 years and the Bozeman City-County Planning Board for 12 years.

During the many years I was in county government I received constant complaints from rural people concerning city jurisdiction over their property and all I could tell them was that County Commissioner authority had been excluded from this area by state law.

House Bill #388 does not prohibit the issuance of building permits or inspections, it only moves the authority on rural property building codes back to our elected county governing bodies. Our present building code laws, which House Bill #388 would amend, allow incorporated cities to adopt and enforce city building codes up to 4 1/2 miles in all directions outside their corporate limits. The extension of these municipal laws by the cities has infringed on our constitutional rights as we in the rural community have no voice in city government. This is not right.

If I decide to build a building in the present 4 1/2 mile area outside the city, I must pay the city a building permit fee, which is a hidden form of taxation. If a building department determines that a property owner has not complied with their city code to an extent that judicial review is necessary, a court action would be filed in City Municipal Court, even though the property was located 4 1/2 miles from their city limits.

City Courts are administered by judges that are elected by city residents. If a jury is required they must be city residents. You could conclude that this rural area has been annexed to the city for building regulation ordinances and enforcement, without allowing property owners a voice in the process. Our state law regarding annexation procedures, among other things, prohibits annexation of agricultural lands, requires public hearings, requires property owners to receive written notice of intent, and disallows annexation if a majority protests.

The present law places our rural property under the control of a non- representative government and allows us no petitioning or protest protection. The opponents to House Bill #388 could argue that the purpose of the present law is to insure that future annexations to their cities could offer a guarantee of safer and better sited structures. However, my observations over the past many years have shown that the vast majority of annexed lands have been undeveloped and vacant. Furthermore, state law does not mandate cities to annex properties. If an annexation request of property contains sub-standard structures, annexation can be denied.

I suspect that any local government opposition to House Bill #388 would be the additional revenues that are being generated that are over and above their operational needs.

If my elected County Commissioners concluded after a study and public hearings that there was a need for building code adoption in the rural areas of Gallatin County, that would be acceptable to me, because it would be my elected representatives making the decisions. Unless House Bill #388 becomes law, the County Commissioners will not even have the opportunity to consider the issue.

I urge you to support House Bill #388.

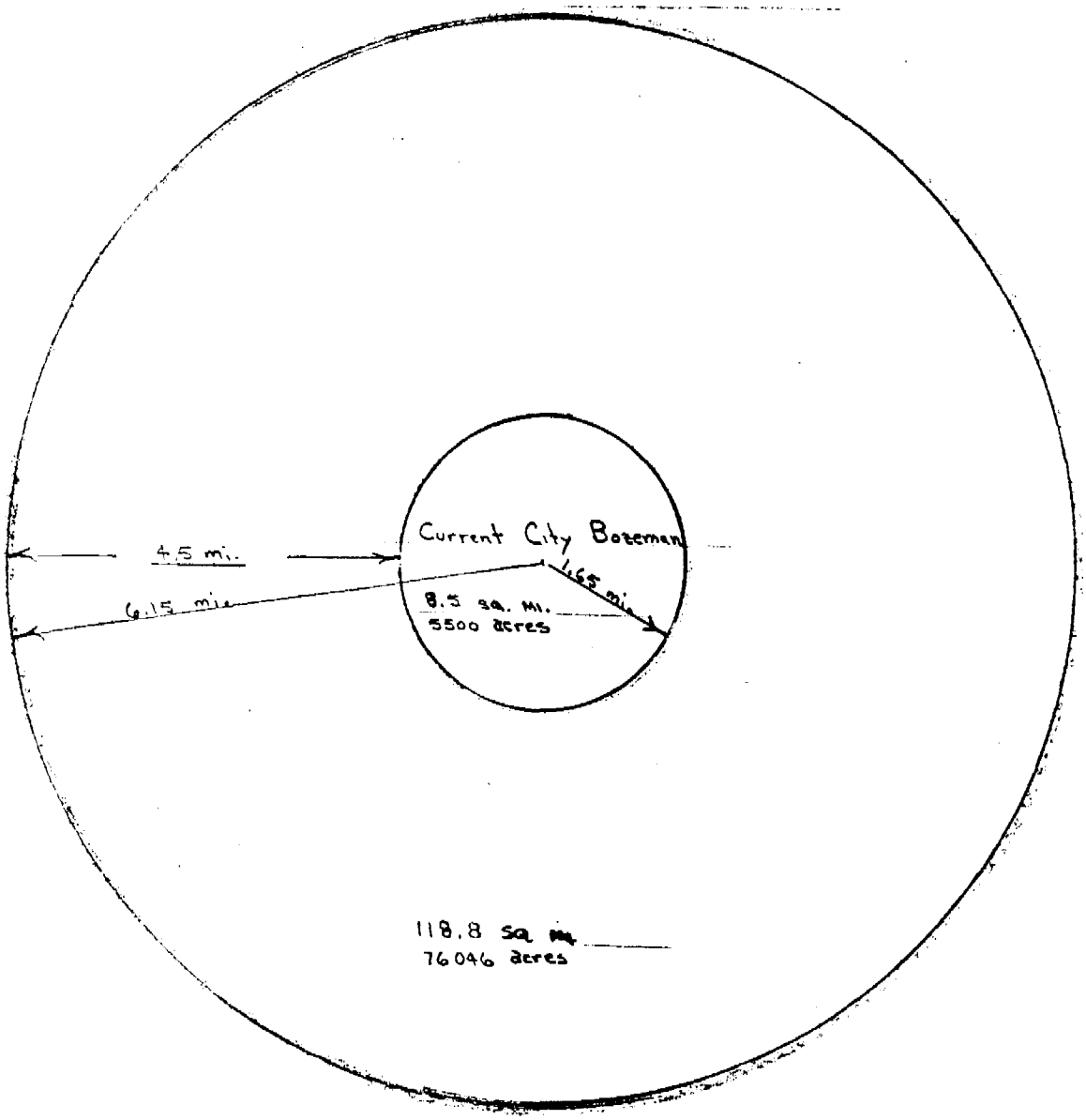
Respectfully,

Ramon S. White

Ramon S. White
4224 Blackwood Road
Bozeman, MT 59715

587-3683

Attachment



Current 4.5 mi. adds 110.3 square miles/70546 acres to Bozeman i.e. 13 times its size.

EXHIBIT 21
DATE 2/5/97
HB 388

Amendment to HB 388
House Business and Labor
Proposed by the Montana Power Company

1. Page 3, line 24.
Following: "power plants,"
Insert: "electric supply stations subject to the National Electrical Safety Code,"

Information Sheet

Re: Proposed Amendments to HB 388

Electric supply stations are currently subject to the National Electrical Safety Code. Pursuant to that code, the term "electric supply stations" includes both electricity generating stations and electrical substations. The purpose of this amendment is simply to add clarification to the applicability section of the bill to ensure that electric supply stations are included in the subsection (c) exemptions.

EXHIBIT 22
DATE 2/5/97
HB 388

TESTIMONY ON HB388

My name is Paul Stanton. I'm a self-employed publisher and distributor living near Milltown.

I'm concerned primarily with the section of HB388 dealing with city code enforcement outside the city limits. Because proponents must speak first, I wish to respond to some of the testimony I expect to hear against this bill.

We'll hear that limiting city jurisdiction to the city limits will result in a wholesale decline of construction quality outside those limits. Thousands of homes are being built and remodeled every year outside the jurisdiction of any city. These homes are inspected by the state for electrical and mechanical compliance, but the other details are the responsibility of the homeowner, contractor, and lending agency. To assert that a lack of city inspection results in poor construction is an insult to the many homeowners, builders, and lenders involved in those projects.

In fact, there has been no outcry from counties, from consumers, banks, or contractors to bring these outlying areas under a comprehensive inspection program. Why, then, do citizens living within 4 1/2 miles of town require the undemocratic and highly unorthodox arrangement of being charged fees and regulated by the government of a neighboring jurisdiction? They're in no greater danger from substandard construction than someone living 5 or 10 miles out.

The incentive for this 4 1/2 mile zone is money. That's why cities will send their officials to Helena today to oppose this bill. City officials don't often lobby in the interest of non-residents, nor should they. Their job is to look out for the city, its residents, and its financial health.

City officials will tell you some construction horror stories today. Please keep in mind that they know about some of those incidents because that bad construction has occurred within their jurisdiction, in spite of the inspection programs. If an inspection program is too expensive or heavy-handed, it can promote unregulated work.

Outside of Missoula, resentment over the city's high fees and arbitrary enforcement has driven a lot of construction to be done in secret, especially remodeling and repair. I know a man who added a second story to his home within plain view of the street, with no permits. Another guy got so tired of paying permit fees for inspectors who never showed up, that he did his next project--a major addition--with no permits, including plumbing or electric.

You'll hear opponents say this issue isn't about money, or appropriate jurisdiction, or about taxation without representation. They'll say it's about quality construction. Don't believe them for a moment. The cities have had years to promote quality construction on their outskirts, and instead they've turned this program into a cash cow--a way of taxing non-residents who can't vote their frustrations. They've run these programs on the cheap and put the surplus into their general fund.

It's time to go back to our traditional democratic values where rural building code programs are concerned, and transfer the authority back to the counties and state where it belongs. I urge the committee to support HB388.

Thank you for this opportunity.

EXHIBIT 23
DATE 2/5/97
HB 388

CITY OF GREAT FALLS
MONTANA

P.O. Box 5021, 59403-5021

H.B. 388

The City of Great Falls is very concerned with the long term effects of H.B. 388. H.B. 388 not only limits cities and towns from enforcing building code compliance on the fringes of their boundaries, but also exempts industrial process facilities, sugar beet refineries, primary metal smelters and refineries, gas processing facilities, pulp and paper mills, cement plants, lime and mineral plants, sulfur plants, chemical plants, power plants and fertilizer manufacturing plants from State building code compliance.

If cities do not operate outside their boundaries, will the State step up and ensure citizen safety? No! The State of Montana has already exempted residences up to five dwelling units from complying with the State building code. This means outside municipal jurisdiction you have small motels, bed and breakfast establishments, four plexes, duplexes and single family residences being built without plan review or inspections.

Montana is experiencing significant growth and much of it is occurring on the fringes of our cities. If cities are not allowed to enforce building codes on these developments and the State code already has exempted residential structures, we see this as disastrous for the future of Montana. We see this Bill as an incentive to building outside municipal boundaries which will result in urban sprawl affecting our farm lands, open spaces, and other scenic landscapes that make Montana.

Without plan review and inspections we see shoddy developments popping up. Montana will be left to deal with the rural slums this Bill will create.

And what about consumer protection? Our families sink all they can into buying their homes. If these homes are constructed without benefit of plan reviews and inspections, who do they go to when the foundation starts crumbling or the roof leaks after their one year warranty is up? Or can they even find the contractor?

We are concerned that growth needs to be planned and managed well if we are going to continue to enjoy the Montana we know. H.B. 388 does not allow that.

Great Falls cares about the safety of its citizens and neighbors. H.B. 388 fails to provide protection for Montanans when they are most vulnerable - in their homes where they sleep and at their places of employment where they labor.

It's time to plan for the future of Montana. We urge you to defeat H.B. 388.

Respectfully Submitted:

Mayor Bob Deming

John W. Lawton, City Manager

Commissioner Joan Bennett

Cheryl Patton, Community Dev. Director

Commissioner Bill Downer

Jim Rearden, Director of Public Works

Commissioner Randy Gray

Bill Walters, City/County Planning

Commissioner John Rosenbaum

EXHIBIT 24
DATE 2/5/97
HB 388

02/03/97 15:43 STATION (123)456-7890 P. 003

City of Kalispell

12 year History of the Revenue & Expenditures of the Building Department

Fiscal year	1997 budget	1996	1995	1994	1993	1992	1991	1990	1989	1988	1987	1986
Revenue Sources:												
Building Permits	$165,000	$185,513	$224,761	$197,692	$139,274	$115,946	$95,967	$66,932	$38,655	$46,392	$60,634	$81,580
Plumbing	$26,500	$25,473	$29,452	$23,730	$17,361	$17,362	$15,420	$10,998	$5,746	$7,659	$8,979	$7,712
Mechanical	$27,600	$28,087	$29,827	$29,542	$21,260	$19,489	$18,003	$7,115	$3,336	$3,012	$4,836	$1,407
Plan Reading	$55,500	$58,375	$71,366	$75,480	$34,593	$33,954	$38,840	$29,662	$14,468	$14,946	$27,655	$33,612
Total Revenue	$274,600	$297,448	$355,406	$326,444	$212,488	$186,751	$168,230	$114,707	$62,205	$72,009	$102,104	$124,311
Expenditures:												
General Fund/Health/Retire	$252,161	$223,502	$223,662	$200,715	$187,988	$152,792	$119,477	$90,278	$81,069	$88,632	$99,686	$107,312
Administration cost-in kind	$25,000	$25,000	$25,000	$25,000	$23,896	$15,000	$15,000	$15,000	$15,000	$15,000	$15,000	$15,000
Work Comp. & Liability ins.	$15,966	$12,695	$12,144	$13,737	$12,982	$7,500	$7,500	$7,500	$7,500	$7,500	$7,500	$7,500
Total Expenditures	$293,127	$261,197	$260,806	$239,452	$224,866	$175,292	$141,977	$112,778	$103,569	$111,132	$122,186	$129,812
Cumulative cash available for reserve : $120,592	($18,527)	$36,251	$94,600	$86,992	($12,378)	$11,459	$26,253	$1,929	($41,364)	($39,123)	($20,082)	($5,501)

FAX

Date 01/29/97

Number of pages including cover sheet

TO: ALEC HANSEN
MLCT

Phone
Fax Phone (406) 442-9231

CC:

FROM: CHERYL PATTON
ASSISTANT CITY MANAGER

CITY OF GREAT FALLS
P.O. Box 5021
Great Falls, MT 50403

Phone (406) 771-1180
Fax Phone (406) 454-3181

REMARKS: ☐ Urgent ☒ For your review ☐ Reply ASAP ☐ Please Comment

CITY OF GREAT FALLS
BUILDING PERMIT REVENUES & EXPENSES

	Revenues	Expenses
1994/95	$340,286	$357,208
1995/96	373,082	418,230
1996/97*	485,465	485,465
1997/98*	559,494	529,054

* projected

BUILDING DIVISION FINANCIAL ACTIVITY
FISCAL YEARS 1985 THROUGH 1996

FISCAL YEAR ENDING JUNE 30,	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	TOTAL
TOTAL REVENUES	631,112	637,260	365,663	347,155	344,073	352,160	433,641	543,838	852,178	1,112,795	1,146,944	1,003,909	8,190,728
EXPENDITURES:													
DIRECT COSTS	425,476	450,875	413,494	343,394	362,923	379,756	344,939	339,042	372,085	452,990	441,184	496,953	
ENGINEERING	43,388	43,875	44,363	44,850	45,338	45,825	46,313	93,600	94,875	95,550	97,500	99,450	
FIRE DEPARTMENT PLAN REVIEW	47,437	47,970	48,503	49,035	49,569	50,102	50,635	51,168	51,701	52,234	53,300	54,366	
INDIRECT COSTS	127,642	135,262	124,648	103,018	108,876	113,926	103,481	101,712	111,625	135,897	132,355	149,086	
VEHICLE CAPITAL COSTS	21,360	21,600	21,840	22,080	22,320	22,560	22,800	23,040	23,280	23,520	12,160	11,032	
TOTAL COSTS	665,303	699,582	652,248	562,378	589,026	612,169	568,168	608,562	653,268	773,191	736,499	810,949	7,931,341
TOTAL REVENUES OVER (UNDER) COSTS	(34,191)	(62,322)	(286,585)	(215,223)	(244,953)	(260,009)	(134,527)	335,276	198,912	339,604	410,445	192,960	259,387
CUMULATIVE TOTAL THROUGH 1991							(1,217,810)						
CUMULATIVE TOTAL THROUGH 1992								(882,534)					
CUMULATIVE TOTAL THROUGH 1993									(683,622)				
CUMULATIVE TOTAL THROUGH 1994										(344,018)			
CUMULATIVE TOTAL THROUGH 1995											66,427		
CUMULATIVE TOTAL THROUGH 1996												259,387	
CALENDAR YEAR	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
CONSTRUCTION	23,569,008	7,885,511	16,067,695	7,546,619	9,602,774	10,198,890	17,545,420	20,099,983	17,905,416	17,969,493	33,196,666	32,341,503	
COMMERCIAL (NEW)	115	47	44	36	34	37	51	73	113	113	125	144	
NUMBER OF UNITS	22,190,000	14,861,640	11,293,644	8,639,834	7,645,865	15,258,915	19,617,019	40,700,615	43,149,764	42,991,510	43,601,560	37,383,229	
RESIDENTIAL (SINGLE FAMILY)	229	209	143	100	79	140	197	403	408	407	431	336	
NUMBER OF UNITS													
TOTAL CONSTRUCTION COSTS	45,759,008	22,747,151	27,361,339	16,246,253	17,148,639	25,457,805	37,162,439	60,800,598	61,056,180	60,961,003	76,798,226	69,724,732	521,338,611
TOTAL UNITS	344	256	187	136	113	177	248	476	521	520	557	480	

Updated 12-9-96\0002a

INDIRECT COST IS BASED ON 30% OF THE DIRECT COST LINE ITEM ASSOCIATED WITH BUILDING DIVISION.

FUSSELL ENGINEERING
CONSULTING & DESIGN

EXHIBIT 25 pg 1
DATE 2/5/97
HB 388

Tuesday, February 4, 1997

Representative Vicki Cocchiarella
Capitol Station
Helena, Montana 59620

RE: HB388

Dear Representative Cocchiarella:

I learned with dismay that there is an attempt to reduce the ability of our building code officials to inspect construction that just happens to be outside of our Missoula boundaries. As you know, the city limits is not representative of what is in the City and what is clearly rural.

City building inspectors are equipped to handle the quantity of construction in the urban areas since that is a basic part of their job. They are well versed in urban type development, both commercial and residential. Furthermore they are acquainted with the contractors and builders who going to be doing business in the urban area independent of which side of the City limits they are on.

The state inspectors, by contrast, cover a very large area consisting of mostly rural residential with occasional commercial businesses. Their large territory requires constant compromise between travel time and inspection time. State inspectors simply cannot provide a level of coverage required by urban development.

Therefore it is crucial for life safety and protection of the public to have urban building inspectors be responsible for urban areas regardless of political boundaries.

If anything, HB388 should be modified to extend urban building inspector territories further beyond city political boundaries than current statutes allow.

Please inform your colleagues with facts so that an erosion of public protection does not occur.

Sincerely yours,

Michael T. Fussell

Michael T. Fussell, P.E.

COMMERCIAL ◇ INDUSTRIAL ◇ ARCHITECTURAL ◇ MAC CONSULTING ◇ ADA/OSHA COMPLIANCE
131 WEST MAIN - SUITE - MISSOULA MONTANA 59802 (406)721-4996 FAX (406)721-6777 INTERNET FUS@ACS.COM

2.4.1997

Business and Labor Committee
House of Representatives
State of Montana
Capitol Station
Helena, Montana 59620

Dear Business and Labor Committee

As president of the Missoula Society of Architects I would like to join our local building officials in opposing the following sections of House Bill 388.

Section 50-60-302C

It appears to us that the proposed changes to this section will allow buildings built for human habitation to be built without code review. We feel this is a dangerous change to current Montana Code

Section 50-60-102

Requiring local building officials to be licensed in the trade in which they are inspecting will be costly and in some cases will require the firing and re-hiring of existing staff

Please take these notes into consideration when you are attending to this bill

Sincerely
Jeffrey Crouch
Missoula Society of Architects

January 30, 1997

House Business and Labor Committee
State of Montana Legislature
Capitol Station
Helena, MT. 59620

Re: HB-388

Dear Committee Members:

I a writing as a professional engineer working in Missoula. We have a structural engineering firm with 7 engineers, 3 CAD drafting people, and supporting staff. We are licensed in 17 states. We do considerable amount of work in California, Colorado, Utah, etc.. So, we work with building jurisdictions around the Western United States and very much appreciate their involvement in construction.

I am very concerned with House Bill 388 and the potential elimination of the 4 1/2 mile jurisdiction of city building inspection. The plans review and building inspection process is a critical aspect in insuring quality construction. The fees for the review and inspections is minimal

If the city jurisdiction is eliminated, a significant amount of construction will be completed with no inspection. Commercial inspections will revert to the State. We also deal on a regular basis with the State Building Codes Division. They are already significantly overloaded. The State inspectors are not able to complete vital, timely inspections at the present time.

I urge you to reject House Bill 388. It would be a major step backwards for the construction industry.

Sincerely,
BEAUDETTE CONSULTING ENGINEERS

Tom R. Beaudette, P.E.

BEAUDETTE
CONSULTING
ENGINEERS, INC.
211 NORTH HIGGINS, 4th FLOOR
MISSOULA, MONTANA 59802
TEL: (406)721-7315

Missoula Electric Cooperative Inc.

FAX TRANSMISSION

MISSOULA ELECTRIC COOPERATIVE, INC.
1700 WEST BROADWAY
MISSOULA, MT 59802
406-721-4433
FAX: 406-549-3155

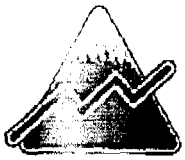
To: Bruce Bender **Date:** 2/3/97

Fax #: 406 442 4030 **Pages:** 2 , including this cover **sheet**.

From: Kurt Flynn

Subject: HB 388

COMMENTS



Missoula Electric Cooperative inc.

1700 W. Broadway
Missoula, MT 59802
406/721-4433
FAX: 406/549-3155
1-800-352-6200

February 3, 1997

House Business & Labor Committee
Capital Station
Helena, MT 59620

Dear Sirs

House Bill 388 requiring the use of journeyman electricians and plumbers to do inspections raises numerous problems for local electric utilities.

At the present time we work with both city and state inspectors for new and retrofit electrical installations. Local inspectors for the city can usually inspect installations within a weeks time. This provides us with a definite framework for us as we work with our customers.

State inspections which occur when the inspector is in the area can present problems for us and our customers. If there is a reason the installation is red tagged then we are required to disconnect the service until the problem is corrected. This creates additional work for the utility and problems for the customer.

Safety should be the primary concern for all electrical inspections. The state system has its drawbacks with regard to safety. The present city system works well and should remain. Additional requirements without funding by the state would place an unfair burden on city government.

The present city inspectors are trained and qualified to do the necessary inspections. Inspection before the connection of electrical service by the utility prevents more electrical accidents than the present state system where inspection occurs after electrical service is connected.

Sincerely

ROCKING M DESIGN
ARCHITECTURE & LANDSCAPE

2280 DUNCAN DR. MISSOULA, MT 59802 (406) 543-8647

February 4, 1997

Chairman of Business and Labor Committee
Capitol Station
Helena, MT 59620

re: House Bill No. 388

Mr. Chairman and Members of the Committee:

After reviewing the proposed amendments to Section 50-60-101, MCA, I offer the following comments for your consideration:

1. Regarding Section 1, subsections 10 and following: The jurisdictional areas of municipalities should not in any way be reduced. If anything the jurisdictional areas should be increased or some other method devised which provides for improving the code enforcement programs in the outlying areas so that the same standards are implemented uniformly throughout the state. Anything less invites substandard building practices, simply because for the majority of the construction processes in these areas, no inspection occurs.
2. Regarding Section 3, subsections 2, f and following: It is very reasonable to "ensure that all construction related fees or charges imposed and collected by the municipality or county are necessary, reasonable and uniform . . . " It is also necessary that the fees are adequate to cover the costs of implementing the code enforcement program. This may best be accomplished by allowing that fees collected only be used for the code enforcement program. However, it must be understood that a program meant to appropriately deal with current and future code enforcement issues in time of sustained growth of construction activity has needs well beyond what may be identified as direct costs. It is also wise to require an agency to be financially accountable over time. However, the information collected over a 6 month period, would not seem adequate to determine fees and would likely result in roller coaster fee schedules due at least in part to the seasonal nature of the building industry.
3. Regarding Section 6, subsection 1, c: As I understand it, inspectors are currently required to be trained and certified. I do believe that this training and certification should be in the field for which they are utilized to inspect, however, requiring them to be state-licensed as journeymen in a particular trade seems redundant and likely to increase the costs of code enforcement.
4. Regarding Section 6, subsection 2. The language concerning "provisions for prompt revocation of certification . . . " seems over generalized and restrictive. Calling for revocation of certification of an entire code enforcement program for infraction of <u>any</u> applicable statute or rule could result in loss of a valuable and necessary community service over a minor infraction or mistake and invites frivolous action by a disgruntled party.

I firmly believe that while specific building regulations may need to be reviewed and amended as appropriate to a particular local or application, code enforcement programs should be implemented in a uniform manner. My understanding is that the purpose of an enforcement program is not to restrict or complicate the building process but to assist the parties involved from design through construction and occupation in understanding and implementing the standards and practices they are already obligated to meet as established by law, in order to promote public health, safety and welfare. I can not help but think that the amendments proposed that I have addressed above, would be detrimental to this purpose.

I thank you for your time and consideration.
Sincerely,

Terre Meinershagen, AIA
ROCKING M DESIGN

architects engineers
3703 South Russell • Suite 114 • Missoula, MT • 59801 • (406) 728-9522 • Fax# (406) 728-8287

February 3, 1997

Business and Labor Committee
Capitol Building
Helena, MT 59620

Attn: Chairman:

Dear Chairman:

I understand that Representative Simon has introduced a bill that would change how construction projects would be inspected, particularly those that lie within 4-1/2 miles of city limits. After reading the bill and conferring with several of my colleagues, I have decided to write your committee to express these concerns:

1. Section 2.b(11): This particular change would take areas that lie within 4-1/2 miles of city limits out of that city's jurisdiction and make it the responsibility of the State. With State inspectors currently being spread too thin, it can be expected that they will be less responsive to requests for inspections. I foresee construction projects being completed without proper inspection.

   Consider also, that these areas (those within 4-1/2 miles of city limits) are potential candidates for annexation to those adjacent cities and that the city would have a vested interest on how these projects are constructed.

2. Section 6.1.c: This change would require inspectors to be licensed journeymen in their craft. This sounds like a good idea, however, I could see that it will be difficult to find such people, therefore putting the responsibility for inspection on the State once again. It can be expected that many projects will go un-inspected. In the various cities which I have worked, the local inspectors have done a fine job. I have less concern with their qualifications than I do with the State having the time and resources to take over the job.

In summary, I see this proposed bill as a way of letting construction projects be completed without proper inspection. My hope is that it does not become law.

I appreciate your consideration of my concerns.

Sincerely,

CTA Architects Engineers

Kent C. Bray, AIA

KCB:lh

j:\users\kentb\genl\bus-l-y.doc

101 EAST BROADWAY SUITE 612 MISSOULA MONTANA 59802
PHONE & FAX 406/721-9908 E-mail: horton@montana.com

MEMO

Date: February 2, 1997
To: House Business and Labor Committee
Capitol Station, Helena, MT 59620
From: Dale Horton
Re: HB 388

HB 388 will weaken building code enforcement in Montana. The measure will add code enforcement work to the already overworked and understaffed State Building Codes Bureau. Building codes are critical to assure construction meets basic life safety standards, and enforcement of the building codes is best done at the local level. Removing outlying areas from the jurisdiction of a local government is inappropriate especially considering the growth occurring in Western Montana.

It is also inappropriate to require code inspectors to be licensed journeyman. This would place unnecessary hardships on local jurisdiction to find qualified inspectors. ICBO certification is a legitimate standard for building inspectors, not a journeyman's license.

Please oppose HB 388. Thank You.

Dale E. Horton, AIA

D:\Office Files\Horton Associates\HB388.doc

EXHIBIT 26.09.1
DATE 2-5-97
HB 388

HB388

SECTION 1, SUBSECTION 11
The proposed change removes the authority for local government to extend its code jurisdiction beyond its corporate limits.

This change prevents a jurisdiction from insuring the quality of the construction being built around its corporate limits and upon future annexation creates a liability for the cleanup of substandard buildings that could exist without adequate construction.

In addition if the city does not cover this area unless counties are willing to adopt codes county wide there will be no structural or mechanical inspections for single family dwellings through 4-plexs. In the case of Billings a large % of new construction falls within this area.

SECTION 2, SUBSECTION (1)(C)
The proposed change expands the exemption for petroleum refineries to include sugar beet refineries, primary metal smelters and refineries, gas and other fuel processing facilities, pulp and paper mills, cement plants, lime and mineral product plants, sulfur plants, chemical plants, power plants, or fertilizer plants.

The 1991 code referenced in this section is no longer valid since the 1994 code is now in effect and there has been a number of changes to the occupancy classification titles.

The code coverage these facilities is compromised yet the City is expected to provide fire protection at the risk of the fire fighters without insuring the facility meets the codes.

SECTION 3, SUBSECTION (1)(F)
The proposed change limits the indirect costs to 10%. The City currently is experiencing a 30% indirect rate. How can a general limit be set when each community is unique in the costs experienced. There is no way to predict that the enforcement experience will be identical in all communities. The change exempts the elected officials authority in communities and replaces it with legislative micro management of the program

The amount of fees on deposit cannot exceed 6 months operating budget. This does not take into account any capital funds for vehicle replacement for example. Again the change eliminates the authority of local elected officials and replaces it with legislative authority.

SECTION 3, SUBSECTION (1)(C)
The change allows the local jurisdiction to enter into private inspection agreements for structures outside their newly defined jurisdiction but does not allow the City the authority to do anything about substandard construction that might be discovered.

How can the City step into what would now be the State or Counties jurisdiction and provide code services? Once it is taken over by another level of government the City is out of the picture.

Furthermore why would a City from a liability standpoint ever want to place its residence in a legal position such as this.

SECTION 4
This section is changed to mandate that all rule activity be conducted in a public hearing setting.

SECTION 6
This section provides changes requiring all plumbing and electrical inspectors to be licensed journeyman. There are jurisdictions that have had persons who are unlicensed but capable inspectors that have been doing inspections for years without incident. Again this removes local government authority and places it in the hands of State government. There is a possibility that local governments could have a problem retaining licensed persons to fill the positions.

This section provides further changes that require the State to constantly monitor local government and conduct annual reviews. Once again the State is exempting the authority to handle its own affairs and limiting the authority of local elected officials. How is the enormous costs going to be paid for providing the needed monitoring services? Will those purchasing State building permits be asked to pay for the program in addition to the costs of providing for their own inspections.

If the State finds violations of the standards for a code enforcement program they are to immediately take over the code enforcement program. This is going to be very difficult when the Legislature is not in session every year and money and staffing need to be created to handle the enormous workload that will come down. Will the local entity even be given the benefit of a proper hearing before such a State action.

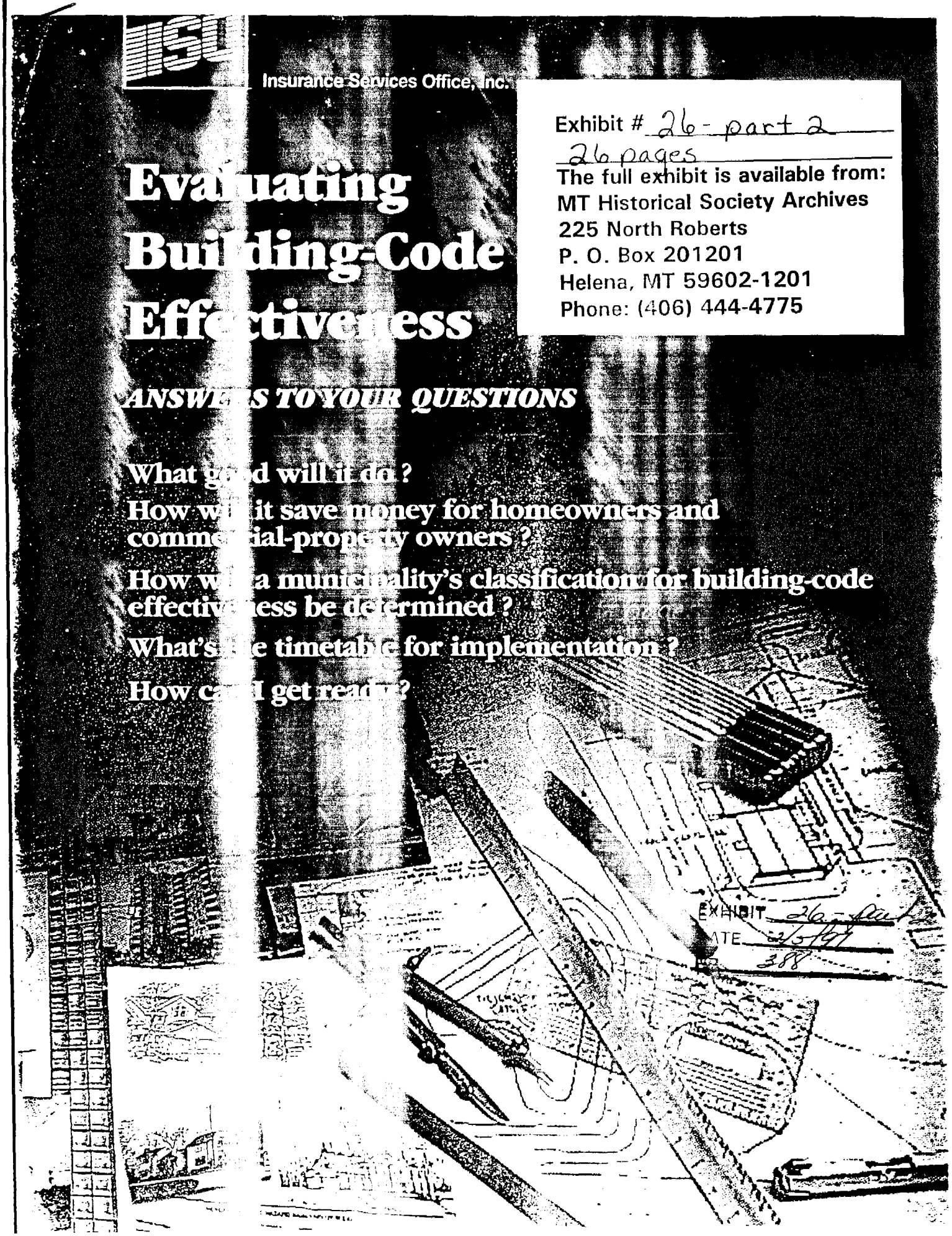

ISO
Insurance Services Office, Inc.
Exhibit # 26 - part 2
26 pages
The full exhibit is available from:
MT Historical Society Archives
225 North Roberts
P. O. Box 201201
Helena, MT 59602-1201
Phone: (406) 444-4775
Evaluating
Building-Code
Effectiveness
ANSWERS TO YOUR QUESTIONS
What good will it do?
How will it save money for homeowners and
commercial-property owners?
How will a municipality's classification for building-code
effectiveness be determined?
What's the timetable for implementation?
How can I get ready?
EXHIBIT 26 - pa
DATE 2-5-97
SB

EXHIBIT 27
DATE 2/5/97
HB 388

February 4, 199

Honorable Rep entative Bruce Simon, Chairman
Business and La r Committee
Capitol Station
Helena, MT 5962-1701

Dear Chairman mon:

I am opposed to House Bill 388 and ask you to consider the following:

* Building safety ffects all Montana citizens, not just the ones who live in cities. We live, work, shop, worship, assemble and recreate in buildings.

* Many building would drop out of the system since the state does not permit or inspect single family through four-plex dwellings.

* Local building epartments are able to provide more timely and relevant service for the extraterritorial commercial construction than is the state, who will assume responsibility for commercial construction.

* Building depa ents provide checks for other regulations. For example: floodplain, energy, lead free solder, sewage d posal and zoning.

* Homes are re d on average of every 7 years. Building "to code" enhances longevity, safety, resale value and prote major investment.

* Manufactured housing is built to a standard and inspected. Site built housing should be afforded equal protection. Construction must be inspected during process if it is to be of any value.

* The insurance dustry is seeking to reduce losses by offering incentives for better code enforcement. Lack of building spection will cost Montanans money.

* Government will be asked to pick up the check for losses. Size of check can be reduced with good planning and enforcement of minimum standards.

Requiring minim m standards of construction allows builders, buyers, realtors, sellers and anyone connected with the building industry to work toward a common known goal. Like the center striping and other traffic ntrol signs on our highways, building codes give us direction, enhance our safety and help reduce loss property and life.

Vote No on Hou Bill 388.

Sincerely,

Craig A. Kerzm

EXHIBIT 28
DATE 2/5/97
HB 388

MEMO

To: Honorable Paul Simon, Chairman
~~Clarence Krepps, City Manager~~

From: Craig Kerzman, Building Official KALISPELL

Subject: House Bill 388 (HB 388)

Date: February 3, 1997

As you know HB 388 proposes legislation that, if passed into law, would prohibit cities from issuing permits and doing code enforcement beyond the city limits.

For the reasons given in this memo, I am opposed to this bill and to HB 369 which contains some of the same provisions as HB 388.

My opposition is based on my belief in government's role in providing for public safety in the buildings people occupy as well as the water they drink and the air they breathe. Building safety affects every citizen in Montana. Preventing loss of buildings or lives, whether due to natural events such as floods and earthquakes or shoddy workmanship, should be a goal of every level of government.

If HB 388 passes in it's present form and becomes law, residential structures from single family dwellings up through four-plex multi-family dwellings will not be inspected and may not be built to any code. Except for electrical wiring, these structures will drop out of the inspection system. The state does not inspect single family through four-plex structures and because of limited resources it is unable to provide the same level of inspection services for commercial construction that local building departments are able to provide. Building "to code" enhances building longevity and value, citizen safety and protects major investments.

Recent experience was gained and very expensive lessons were learned from Hurricane Andrew in Florida and Iniki in Hawaii, flooding in the Midwest and earthquakes in California. While none of these singular catastrophes has recently befallen Montana's buildings or residents, we are vulnerable.

Kalispell is in a seismic zone 3 and has a 70 mile per hour design wind speed. The snow load in Kalispell is 40 pounds per square foot. Anyone from the Kalispell area is aware of the problems caused and damage done to buildings and building owners because of this winter's snowfall.

Based on experience I will tell you that many builders, whether homeowner/homebuilder or contractor, do not fully appreciate the stresses placed on buildings due to natural forces and they do not build the buildings to withstand significant earthquakes, high winds or heavy snows. Constructing buildings that are safe and durable is as important as building highways, cars, airplanes, dams, etc., that are safe.

Buyers of single family homes, many of whom know little of construction or codes, make their single largest investment in their home. They often see only shingles, painted siding, walls and ceilings and floor coverings. Most of the construction is concealed. Defects such as undersize headers, over spanned rafters, trusses or joists, or inadequate foundations may not lead to catastrophic failure but will cause premature deterioration of the building with it's resultant loss of desirability and value. Flaws may not be evident and may not manifest themselves until a critical event such as an earthquake, fire, heavy snow or high wind occurs. Construction inspection can help prevent inadequate construction but it must occur during the construction process to be effective.

To whom do the people turn when disaster happens? All too frequently they demand the government solve their problem; the same government they want off their backs. If anything has been learned over the years about nature's destructive forces and buildings, it is that preventing problems is easier and cheaper than fixing them. When the government is asked to pick up the check, the size of the check can be reduced by enforcement of minimum standards.

The argument that, "it's my home, I'll be the only one damaged.", is not true anymore. Decades ago it was more common for succeeding family generations to live in the same house. Today, rather than one house lasting through several generations of a family, a single family generation now moves through several houses. One need look no further than a real estate sales magazine to see that houses, within the city limits as well as those way beyond, change owners frequently, on an average of every 7 years.

Manufactured homes, which can be purchased from sales lots much like automobiles, are built to a national code in a controlled assembly line environment and are inspected. Why shouldn't the government provide an equal level of protection to those who decide to build or buy site built housing, particularly when the investment is generally greater and the life expectancy longer in a site built home. It would be ironic to have inspected manufactured housing and uninspected site built housing.

People benefit from government regulation in many ways. Nearly all goods and services involve some form of governmental regulation. Food and water, banks and bars, barbers and hairdressers, gaming, pharmaceuticals, fuel, paint, aviation, automobiles, highways, health care, engineering, legal and accounting services to name but a few. Why exclude buildings? They are just as important to our daily and long term well being as are any of the regulated goods and services listed. We live, work, shop, eat, worship and assemble in buildings.

It seems ironic to me that people will pay more for annual premiums for collision insurance to protect their short term investment in a motor vehicle, which depreciates in value, than they will pay for a one time only building permit which will help protect a much larger and potentially appreciating long term investment. Building insurers, like auto insurers, have undertaken a program to reward codes and good code enforcement. It is called Building Code Effectiveness Grading Schedule (BCEGS), and has the potential to save money for Montana citizens.

Buildings are comprised of interrelated structural, architectural, electrical, plumbing and mechanical systems. All are important and all should be built to a minimum standard and inspected. Each area is just as important and should be regulated to the same degree as the electrical wiring. While the state insists on permitting and inspecting the wiring, it seems like it is unconcerned about the other components that are necessary to make a safe and sound building.

Building permitting is also the process that many other regulatory functions depend upon for compliance with applicable laws. Floodplain regulations, zoning regulations, energy standards and other health (lead free solder, potable water, sanitary sewer disposal) and safety regulations are complied with because of the building permitting process. Without this safety check, no one knows there's a problem until there is a complaint, damage, injury or fatality.

For contractors involved in commercial construction I believe our local building department is better able to conduct plan reviews, issue building permits and pull inspections in a more timely manner than the state can provide. Local building departments are also in a position to better respond to the demands of local contractors and adapt to the local construction situation.

I don't think a law that will jeopardize the safety of thousands of homes and Montana citizens that live beyond the city limits of Montana's cities is necessary or wise. Building codes and code enforcement have led to better and safer buildings being constructed. Better buildings are better for the community and for Montana's citizens. Ask the property and casualty insurance underwriters if codes and code enforcement should be lessened.

If House Bill 388 becomes law, the level of safety and sanitation, as well as compliance with zoning, floodplain and other regulations for residential construction will decrease or disappear.

The people who are least able to afford architects, engineers or private inspectors to protect their interests and who rely on their government for help and protection will be the losers, not developers and speculative home builders. Also hurt would be young families attempting to afford a home but who have little realization they may be placing their family in harms way or who will lose their investment unless they can afford an attorney to recover their damages.

Those of us charged with enforcing building codes, know of the problems associated with structures not regulated by the codes for many of us have had to deal with those exisitng structures which have been annexed into our areas. It is often extremely difficult to modify structures not built to code, which later becomes the responsibility of a jurisdiction, without causing an extreme hardship to the owner. This problem is only aggravated by the influx of individuals moving to our state looking to take advantage of opportunities such as this.

I am also opposed to other provisions of this bill such as Section 3, Paragraph (2)(c) which appear to prohibit code enforcement on construction that is built and completed over a weekend or is otherwise, "snuck in".

The language of Section 3 Paragraph (2)(c) is also objectionable. The state should not be in the business of monitoring the construction related fees of a local community.

The proposal of Section 6 Paragraph (1)(c) to require a licensed journeyman plumber to perform inspections is without merit. Just as one does not need to be a structural engineer to weld or bolt a structural steel frame together or to construct a concrete foundation, an inspector need not be a licensed plumber to inspect plumbing installation for code compliance.

I am unsure of what this bill intends to accomplish. While a handful of individuals may somehow benefit, it appears to create a huge potential to harm Montana's citizens and building inventory. Reasonable standards, fairly and equally enforced, are appropriate and insure a safer environment to help prevent loss of life and property. It is in the best interest of building owners and tenants and all citizens of Montana to require minimum standards of construction for residential and commercial structures.

Vote No on this proposed bill.

EXHIBIT 29
DATE 2/5/97
HB 388

Emergency Resolution # 1
Montana State Fire Chiefs' Association

Whereas Model Building Codes reduce the loss of life due to fire, smoke and toxic gases;

Whereas, Model Building Codes reduce property loss from the tragic affects of fire;

Whereas, Model Building Codes enhance the level of protection for firefighters conducting firefighting activities on the interior of structures;

Whereas, Model Building Codes directly affect insurance rates for citizen's of Montana;

Now Therefore Be It Resolved, the Montana State Fire Chiefs' Association supports the adoption and enforcement of a Model Building Code for all residential and commercial buildings in the State of Montana.

Adopted at the Montana State Fire Chiefs' Association Annual Conference, September 27 - 28, 1996

EXHIBIT 30
DATE 2/5/97
HB 388

MISSOULA RURAL FIRE DISTRICT

2521 SOUTH AVENUE WEST MISSOULA, MT 59804 (406) 549-6172

February 4, 1997

TO: Representative Bruce Simon,
Chair, Business and Labor Committee

FROM: Bill Reed,
District Fire Chief

SUBJECT: HB 388

I urge the committee and the legislature to consider fire and life safety issues as your deliberate this bill.

Currently Missoula extends its building inspection program 4 ½ miles into the county. If they did not the extensive building going on in the area would be without supervision.

The program works well to provide enforcement of the building code and its companion fire code. I can support status quo.

However if the legislature decides to change a municipalities jurisdictional limitations please provide an alternate inspection and enforcement program capable of protecting public safety.

Thank You

THE CITY OF BOZEMAN
35 NO. BOZEMAN AVE. P.O. BOX 640
CARNEGIE BUILDING BOZEMAN, MONTANA 59771-0640
BUILDING INSPECTION PHONE: (406) 582-2375 • TDD: (406) 582-2301
ENGINEERING DEPARTMENT PHONE: (406) 582-2380 • TDD: (406) 582-2301

EXHIBIT 31
DATE 2/5/97
HB 388

MEMORANDUM

February 5, 1997

To: Members of the House Business and Labor Committee

From: Neil Poulsen, Chief Building Official, City of Bozeman, Montana

Subject: Jurisdictional areas outside of city limits - HOUSE BILL 388

Currently there is a bill pending in your committee at the legislature to reduce cities jurisdictional area down to the city limits. Additionally the pending bill would require plumbing and electrical inspectors to hold a state license or journeyman's certification in those trades in order to be an inspector of those trades. Also included in the proposed bill are some guidelines to reduce the reserve fund for building departments.

The removal of city jurisdiction in the 4 ½ mile area around the cities would basically open the door to allow anything to be built in any way that people choose to in those areas. When that happens the basic life safety issues that the code promotes are put into second position behind convenience and contractors profits. In addition, the only permits that would be issued for most structures in those areas would be an electrical permit. The only inspections made would be a rough electrical and final electrical inspection. Those minimal inspections are further eroded by the fact that state law doesn't require those inspections to be made under certain conditions. From personal experience being in the construction industry in the county area I can vouch for the fact that in some cases NO inspections are made on some projects. If the electrical inspector has more work than he can handle at the time, then he just doesn't show up for the inspection and the work is allowed to continue without the inspection (as in the case of the project I was constructing).

The result of this haphazard means of making inspections is that the areas in the county that may incorporate into the city jurisdictional areas are filled with structures that may not meet basic life safety requirements. The buildings become a liability to the community for fire protection and personal life safety that may have to be dealt with in emergency situations. If the legislators feel this area should be removed from the cities jurisdiction they should come up with a plan within their legislative work to provide for comparable inspection coverage if city services are removed.

Another troublesome part of this legislation requires that building inspectors within a city jurisdiction would be required to have an electrical or plumbing contractors license or journeyman certification to inspect the electrical and plumbing work within the jurisdiction

or the jurisdiction would be decertified in those areas of inspection. An analogy to this would be to require all legislators to be lawyers since they are making laws. Just having a contractors license or journeyman's card doesn't guarantee that someone can know how to inspect that type of work. While I agree that building inspectors need to be certified there can be other venues to certify as an inspector other than through the state licensing process that are comparable (ICBO, IAEI or IAPMO).

Most jurisdictions in the state have combination inspectors that inspect all areas of the building for code compliance. It would be very difficult for a combination inspector to obtain both a plumbing and electrical contractors license or journeyman's certification in order to inspect the electrical and plumbing work in addition to the building. There are similar certifications that can be obtained through the organizations that write the model codes that would be more applicable to actual inspection work and still promote competency in inspection work other than a contractors license or journeyman's card. Inspection work is every bit as specialized as trade work and training and certification should be administered through an appropriate program other than those required for trades people. A certification can be obtained for electrical, plumbing and combination inspection from ICBO. This is an international association that certifies inspectors through the testing process. By design, any tests that are administered through ICBO require not only a knowledge of the codes but field experience in order to pass the tests. It is my opinion that the law should be written to allow either a contractors license, journeyman's card or an approved certification from ICBO in the fields of electrical and plumbing inspection or a combination certification in electrical, plumbing, mechanical and building inspection.

The bill as currently written places a financial burden on local building departments to hire new staff that can comply with the ruling (un-funded mandates) or send the public into the process of having to obtain two permits and schedule two inspections from two different agencies i.e. local city jurisdictions and the State Building Codes Bureau. My opinion is that neither of these two options is acceptable.

The cutback in funding is also a concern to the administration of building departments. The cyclical nature of the building industry makes it difficult to react to building boom and bust periods. [redacted] The bill as proposed puts building departments on a six month cycle which is totally unacceptable. Boom and bust cycles don't go in six month cycles in this state. The ten percent figure for overhead and reserve funding that the bill proposes is too low and the thirty percent figure we are at now is obviously too high, it seems like there should be some middle ground on this issue.

Please take a closer look at this bill before it goes to the floor for a vote and revise it to be reasonable and proper for ALL people concerned, especially looking at the life safety for the public affected.

EXHIBIT 3-2
DATE 2/5/97
HB 388

Columbia Falls Aluminum Company
2000 Aluminum Drive
Columbia Falls, Montana 59912
Telephone 406/892-8223

February 2, 1997

Representative Bruce Simon
214 Clark Ave.
Billings, MT 59101
FAX (406) 444-3036

Dear Rep. Simon:

Re: HB 388--UBC EXCLUSION

I'm writing this letter in support of House Bill 388 which will exclude process industries from the Uniform Building Code. As you may know, CFAC has a large aluminum smelter in northwest Montana with a workforce of 600 people. To the best of our knowledge we have never had a UBC inspector on our plantsite, nor do I believe we need one. I have three main reasons for this position:

1. Expertise--Our nearest community, Columbia Falls, is a small town of 3500 people. If they extend their building code jurisdiction to our plant, we have concerns about the industrial expertise of their inspector. It's highly unlikely that this person will have experience in industrial electrical systems, automated process control, high temperature materials and industrial structures, such as what we have at our plant.

2. Existing Jurisdiction--We are currently covered and closely monitored by OSHA. In addition we closely follow applicable codes such as UFC, NFPA, ASME, ANSI, ASTM, AND NEC (National Electrial Code). Our engineers, superintendents, foremen and craftsmen are trained in these codes.

3. Self Regulation--With a large facility such as ours, we obviously carry business interruption insurance. Our insurance underwriter takes great care to make sure our facility employs the best practices in construction and protection of the physical plant. As a result, we have two insurance inspections each year; one is a "wall to wall".

Columbia Falls Aluminum Company cares about the health and welfare of its workers and the local citizens. We are also concerned about maintaining the assets at our facility. These two topics are the first and last statements of our Mission Statement. We have a 41 year history of doing business in the state of Montana. We believe that we can continue to do business without UBC oversight as we have done throughout the history of our operation.

Sincerely,

Thomas F. Payne
Technical and Customer Service Manager

mc Ms. L Thompson FAX (406) 245-7112
L. E. Tate

h:\hb388.let/tfp

EXHIBIT 33
DATE 2/5/97
HB Missoula Mill 288

Stone Container Corporation
Containerboard and Paper Division
Mullan Road P.O. Box 4707 Missoula, Montana 59806-4707
406.626.4451
406.626.5986 Fax

February 3, 1997

Representative Bruce Simon
Capital Station
Helena, MT 59620

Re: Support of LC534 - Uniform Building Code Exclusion

Dear Representative Simon:

As the Plant Engineer for Stone Container's Pulp and Paper Mill in Missoula County near Frenchtown, I can assure you of our support for LC534. Our mill is considered a large paper mill and our building and construction standards are oriented toward heavy industrial machinery. We support LC534 for the following reasons:

1. We employ recognized industrial fabrication and construction standards such as: American Society of Mechanical Engineers (ASME), Occupational Safety and Health Administration (OSHA), American Society of Testing and Materials (ASTM), American National Standards Institute (ANSI), National Fire Prevention Association (NFPA), and Factory Mutual (FM). Each of these agencies is recognized for the highest of standards for safe construction.

2. Most of our construction involves process controls and equipment that are unfamiliar to inspectors. Educating an inspector can become an unreasonable demand on a project engineer.

3. Duplication and conflicts between an industrial standard and the UBC could cause delays or costly rework.

The UBC exclusion will not jeopardize the health, safety, or welfare of any of our employees because our existing standards demand equal or better construction and operating criteria. We plan to continue providing a safe and healthy place of work.

Sincerely,

Russ Anderson
Plant Engineer

sp

EXHIBIT 34
DATE 2/5/97
HB 388

February 4, 1997

The Honorable Bruce Simon
Chairman, House Business
Members of the Committee

RE: HB 388

I strongly support your efforts to pass into law HB 388.

It has become woefully apparent that the city of Billings has neglected it's duty of public health, safety and welfare and become merely a revenue collection agency.

My office receives almost daily complaints from homeowners who have been victimized by incompetent contractors whose installations have been inspected and approved by the city building codes. The home owners wonder why they must pay the city permit and inspection fees if they are not receiving the protection of inspection expertise.

In the real world if one does not do the job they are being paid to do, then they are terminated. This rule should also apply to governmental bureaucracies.

Sincerely,

Duane Steinmetz
UA Training Director

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL DATE 2/5/97

NAME	PRESENT	ABSENT	EXCUSED
Bruce Simon, Chairman	X		
Paul Sliter Vice Chairman	X		
Bob Pavlovich, Vice Chairman	X		
Joe Barnett	X		
Rod Bitney	X		
Sylvia Bookout	X		
Charles Devaney	X		
David Ewer	X		
Kim Gillan	X		
Billie Krenzler	X		
Bob Lawson	X		
Rod Marshall	X		
Gay Ann Masolo	X		
Wes Prouse	X		
Carolyn Squires	X		
Jay Stovall	X		
Cliff Trexler	X		
Joe Tropila	X		
Carley Tuss	X		

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 2/5/97

BILL NO. HB388 SPONSOR(S) Sim

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
P O I	Mary Westwood	PO BOX 31118 Billings	MT SULPHUR
P O I	Larry Brown	Helena	Ag Pros. Assoc.
P O I	John Levien	P.O. Box 1976 Kalispell MT	City of Kalispell
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 2-5-97

BILL NO. HB 386 SPONSOR(S) _____

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
P O I	Mike Kattasy	P.O. Box 5021 GT. FALLS	City of Gt Falls
P O I	W. James Kembel	1100 Knight Helena	City of Billings
P O I	~~Kathy Jenkins~~	~~P.O. Box 5021 GT. FALLS~~	~~City of Gt. Falls~~
P O I	Bill Reed	2521 Southview Missoula	Missoula Rural Fire
P O I	Chuck Winn	Box 640 Bozeman MT	~~Bozeman Fire Dept~~ City of Bozeman
P O I	Bill Pierce	1924 College Ave. Helena	Pierce & Assoc. - Builders
P O I	W James Kembel	1100 Knight Helena	MT. Technical Council
P O I	Mike Lahr	P.O. Box 797 Helena MT	Montana Power Co.
P O I	Bruce Bender	435 Ryman Missoula MT	City of Missoula
P O I	Don CHANCE		MT. Building IND. Assoc.
P O I	Gay Rye	PO Box 875 Billings 59103	Billings Home Builders Assn of
P O I	Paul Gerber	1320 Poly Drive Billings	Billings Fire Dept.
P O I	Jim Tillotson	P.O. Box 1178 Billings, MT.	City of Billings
P O I	Kim Palmeri	1123 Eighth Billings	City of Billings

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE _____

BILL NO. HB388 SPONSOR(S) _____

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
P O I	Larry D. Moore	PO Box 1170	City of East Helena
P O I	Betty Benigen	Po Box 712	City of East Helena
P O I	CRAIG KEREMAN	2483 Arg East	KALISPELL
P O I	Jerry O'Neil	702 Helena Flats	Kalispell
P O I	Neil Poulsen	Bozeman 9419 Pleasant Dr.	city of Bozeman
P O I	[redacted]	Bozeman P.O. Box 640	[redacted]
P O I	Michael Fellows	P.O. Box 4803 Missoula MT	Self
P O I	Susie White	Bozeman	Self
P O I	[illegible]	P.O. Box 999 [illegible]	City of East Helena
P O I	DAVID HOFFMAN	Box 1366 DILLON 59725	CITY OF DILLON
P O I	Paul Stanton	Box 86 Milltown 59851	self
P O I	Joseph S Quist	P.O. Box 135 East Helena	Self
P O I	Wayne Kinzer	P.O. Box 307 East Helena	city of East Helena
P O I	ALEC Hansen	BOX 1704 Helena	MLCT

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

EXECUTIVE ACTION ON HB 388

Motion: **Rep. Simon** moved do pass HB 388.
{Tape: 3; Side: 2; Approx. Time Count: 28.9; Comments: None.}

Motion: **Rep. Simon** moved to adopt Simon amendments. **EXHIBIT 27.**
{Tape: 3; Side: 2; Approx. Time Count: 29.8; Comments: None.}

Discussion: *{Tape: 3; Side: 2; Approx. Time Count: 30.; Comments: None.}*

Motion/Vote: **Rep. Bookout** moved to segregate amendments 1 thru 7 and adopt 1 thru 7. Motion carried unanimously.
{Tape: 3; Side: 2; Approx. Time Count: 41.7; Comments: None.}

Discussion: *{Tape: 3; Side: 2; Approx. Time Count: 42.6; Comments: None.}*

Vote: Vote to adopt amendment 8 carried roll call 11-8.
{Tape: 3; Side: 2; Approx. Time Count: 43.; Comments: None.}

Motion **Rep. Simon** moved do pass HB 388 as amended.
{Tape: 4; Side:1; Approx. Time Count: .1; Comments: None.}

Discussion:
{Tape: 4; Side: 1; Approx. Time Count: 6.2; Comments: None.}

Vote: Motion carried roll call vote 14-4.
{Tape: 4; Side: 1; Approx. Time Count: 6.3; Comments: None.}

EXHIBIT 27
DATE 2/7/97
HB 388

Amendments to House Bill No. 388
First Reading Copy

Requested by Rep. Simon
For the Committee on Business and Labor

Prepared by Stephen Maly
February 6, 1997

1. Title, line 8.
Strike: "AND"

2. Title, line 9.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 3, line 21.
Strike: "petroleum refineries,"

4. Page 3, lines 24 through 27.
Strike: ":" on line 24 through "(ii)" on line 27

5. Page 3, line 24.
Following: "power plants,"
Insert: "electrical supply stations subject to the National Electrical Safety Code,"

6. Page 5, line 23 and 24.
Following: "codes" on line 23
Strike: remainder of line 23 and line 24 in its entirety
Insert: "plus indirect costs charged on the same basis as other local government programs not paying administrative charges as direct charges. If indirect costs are waived for any local government program they must also be waived for the program established in this section. Indirect charges are limited to the charges that are allowed under federal cost accounting principles that are applicable to a local government."

7. Page 7, line 17.
Following: "occupation"
Insert: "or certified by the international council of building officials"

8. Page 7, line 30.
Insert: "NEW SECTION. **Section 1. {standard} Effective date.** [This act] is effective July 1, 1997."

HOUSE STANDING COMMITTEE REPORT

February 7, 1997

Mr. Speaker: We, the committee on Business and Labor report that **House Bill 388** (first reading copy -- white) **do pass as amended.**

Signed: *Bruce Simon, Chair*

And, that such amendments read:

1. Title, line 8.
Strike: "AND"

2. Title, line 9.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 3, line 21.
Strike: "petroleum refineries,"

4. Page 3, lines 24 through 27.
Following: "power plants," on line 24
Insert: "electrical supply stations subject to the national electrical safety code,"
Strike: ":" on line 24 through "(ii)" on line 27

5. Page 5, lines 23 and 24.
Following: ", plus" on line 23
Strike: remainder of line 23 and line 24 in its entirety
Insert: "indirect costs charged on the same basis as other local government programs not paying administrative charges as direct charges. If indirect costs are waived for any local government program, they must also be waived for the program established in this section. Indirect charges are limited to the charges that are allowed under federal cost accounting principles that are applicable to a local government."

2/7

Committee Vote:
Yes 14, No 4.

291507SC.Hgd

6. Page 7, line 17.
Following: "occupation"
Insert: "or be certified by the international council of building officials"

7. Page 7, line 30.
Insert: "NEW SECTION. Section 1. Effective date. [This act] is effective July 1, 1997."

-END-

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

BUSINESS AND LABOR COMMITTEE

DATE 2/7/97 BILL NO. 388 NUMBER

MOTION: Senson moved do pass as amended on HB 388.

NAME	AYE	NO
Bruce Simon, Chairman	X	
Paul Sliter, Vice Chairman	X	
Bob Pavlovich, Vice Chairman		X
Joe Barnett	X	
Rod Bitney	X	
Sylvia Bookout	X	
Charles Devaney	X	
David Ewer	X	
Kim Gillan		X
Billie Krenzler		X
Bob Lawson		X
Rod Marshall	X	
Gay Ann Masolo	X	
Wes Prouse	X	
Carolyn Squires	X	
Jay Stovall	X	
Cliff Trexler	X	
Joe Troplia	—	—
Carley Tuss	X	

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

BUSINESS AND LABOR COMMITTEE

DATE 2/7/97 BILL NO. 388. NUMBER

MOTION: Amendment # 8

NAME	AYE	NO
Bruce Simon, Chairman	X	
Paul Sliter, Vice Chairman	X	
Bob Pavlovich, Vice Chairman		X
Joe Barnett	X	
Rod Bitney	X	
Sylvia Bookout	X	
Charles Devaney	X	
David Ewer		X
Kim Gillan		X
Billie Krenzler		X
Bob Lawson		X
Rod Marshall	X	
Gay Ann Masolo	X	
Wes Prouse	X	
Carolyn Squires		X
Jay Stovall	X	
Cliff Trexler	X	
Joe Troplia		X
Carley Tuss		X

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 13, 1997, at 9:00 A.M., in ROOM 410.

ROLL CALL

Members Present:
Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Bea McCarthy (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 388; HB 399; 3/5/97
Executive Action: None

HEARING ON HB 388

Sponsor: **REP. BRUCE SIMON, HD 18, BILLINGS**

Proponents: **Steve White, Bozeman**
Mary Westwood, Montana Sulfur & Chemical Co.
Don Chance, MT Building Industry Assoc.
Kim Hughes, Unifield Engineering, Billings
SEN. DALE MAHLUM, SD 35, MISSOULA

Opponents: **Peter Blouke, Dept. of Health & Human Services**
Al Hanson, MT League of Cities & Counties
James Kembel, MT Technical Council
Bruce Bender, City of Missoula
Kim Palmieri, City of Billings
Gloria Paladichuk, Richland Development, Sidney

Paul Gerber, Billings Fire Dept.
Charles R. Brooks, Yellowstone County
Ron Ashabraner, State Farm Insurance
Brandt Salo, MT Chapter ICBO
Craig Kerzman, Kalispell Building Dept.
SEN. DEBBIE SHEA, SD 27, BUTTE

Opening Statement by Sponsor:

REP. BRUCE SIMON, HD 18, BILLINGS. I bring you HB 388 today. I would like to give a bit of background on this bill. This bill is about building codes and not about zoning or planning. I would like you to understand that I am not against building codes. Building codes are good and beneficial and I have consistently supported these codes. What are State Building Codes? Briefly, the state adopts codes. These are national standards that are changed about every three years and there are a variety of these codes. There are the Uniform Building Code, the Uniform Plumbing Code, the Uniform Mechanical Code and the Uniform Electrical Code. Since 1977 when the bill passed, these are the codes that are enforced everywhere in the state. Cities can form their own building code department. They can enforce the state building codes so long as they enforce the same codes that are enforced by the state. They are required to adopt the same codes as the state adopts. In order to be certified, a city has to make an application to the state and be certified. It is essentially a handing down of state authority to local government to enforce the codes that the state adopts. Counties can do this also. They must do it countywide, not just here or there.

In 1969, Legislature passed a bill that said that cities may have extended building code jurisdiction. They could go out to 4½ miles outside the city limits and enforce building codes. At that time, the codes that they were enforcing might have been different than the state's codes because we didn't get uniform on that till 1977. For several years you could have two different codes being enforced. In the case of Billings, in 1971, they did apply and were granted to go 4½ miles outside the city limits. It sounds like a trade off. What is the big deal? They are just enforcing the state building codes. If you look in the Montana Code Annotated, you will find that there are some differences. First, when the state is in charge of enforcement they are required to enforce the codes on certain structures. The MCA exempts a number of structures. It exempts single family residences up through four-plexes; it exempts farm and ranch buildings and storage buildings for personal use. The state decided that a person can build his own house and didn't need permits or oversight. A private home is not a public building. But above four-plexes, you get into the public domain. And these buildings need permits because the public safety is involved.

In the code, it says that you can't apply the codes to these smaller structures; however, the cities can by resolutional ordinance make their codes applicable to those structures. Here

is where the rub comes in. There are four levels of decision making that cities get to make when they get into the code enforcing business. First, they get to pick and choose which of the codes they wish to enforce. By that, some cities may say we will enforce all the codes, some say only these or those codes. Secondly, when the state adopts building codes, they go through those codes and pick which ones they are going to enforce and the cities can pick and choose which ones they want to enforce. The law allows cities to develop their own fee structure and in most cases you will find the fee structure that cities charge is higher than what the state charges for the same services. And lastly and most importantly, that choice of which structure will the city apply the building codes to is decided again by the city council. Most cities, when they get into the business, say they are going to apply it to all structures. They include garages, houses, decks, fences, a sign, etc. Anything you build, you have to get a building permit inside the city limits. Outside the city limits, you don't have to get that permit.

The first and most important part of this bill will be found on page 2, under the definition section. For many years, a municipal jurisdiction area is that area within the city limits and may be an area up to 4½ miles outside the city limits. In some cases you will see the exception where they might even go further than the 4½ miles outside the city limits. The city makes an application; the application has to be approved and then they can go up to 4½ miles outside the city limit. Through my study of this issue, I thought maybe we should go for annexation so those citizens can have some rights. Through a vote, they can say they do or don't want to be a part of the annexation. This is how a democracy is. The citizens have some rights. But in this case, they don't have those rights. Billings is making application right now. At one of those hearings over 500 people showed up. One person spoke in favor of the application, the remainder, 500 people, were all there in opposition. The state makes the decision on their own judgment, not in looking at the 500 to 1 people in opposition to the application. And in further studies, I came across the Montana State Constitution. This document is one that we, as Legislators, take an oath to uphold and defend. I realized that there was something fundamentally and constitutionally wrong. With granting authority to the cities to govern citizens that don't live in the city goes against our own Montana State Constitution. The people who live in these areas outside of the city limits but are taxed by the city via building code fees and rules and regulations, cannot vote for the council members who govern them. The residents of the city elect the city council members. The City of Billings right now has about 27 square miles inside the city limits. The area that they would like to govern outside the city limits, as is often referred to as "the donut area", would be about an additional 200 square miles. This is seven times larger than the city. I do not believe that they should have jurisdiction over one inch outside their city limits. This bill would limit the cities to their jurisdictional limits within their corporate

limits. For me this is a Constitutional issue. Who gets to govern our citizens. Would we allow Wyoming or North Dakota to impose their regulations or fees on our citizens? I hardly think so. Why should we let cities impose their rules, regulations and fees on county residents who have no vote or voice. It is simply not right.

On page 3, under current Montana law, petroleum refineries are exempt from having to comply with the State Building Codes. The reason that they are exempt is because they are very broad, highly engineered facilities that have to meet standards far in excess of ordinary building codes. This bill expands that to include a number of other facilities. I have a letter **(EXHIBIT 1)** from Stone Container Corporation that outlines the kinds of standards that they have to meet in building their facility. When a local building inspector goes in to inspect these facilities, they are in over their head. If it was reasonable to exempt petroleum refineries, it is also reasonable to exempt some of these other facilities like Montana Sulfur which is right next door to a refinery.

We go next to page 5. Most of the cities were certified by the state to be inspectors. They then assumed the responsibility of code enforcement. That was done in 1979. Eighteen years later, the files are virtually void of any material that indicates that the state is doing any oversight. They have not gone back to the cities to see if they still have qualified inspectors. They have not looked to see how they are spending their money. These are basic questions. I feel that the cities need to be checked. This portion of the bill requires that they ask the cities what and how they are doing and see if they are meeting certain standards. The bill states that the cities cannot collect fees in excess of what it takes to run a building codes department. In my own city, they were overcharging. They were putting the money in the general fund and then funding the building fund out of the general fund. They have been doing this for four or five years in a row. Recently, the amount of money paid into the City of Billings general fund for building permits exceeded the amount to run the building codes department. Where did the extra money go? Yes, they spent it for other things. That again, is taxation without representation because much of the money came from citizens from outside the city limits. This is designed to stop that. About a year ago, the rules got changed at my insistence. Those are rules and this would be statute.

I was informed by the City of Laurel that they receive calls from people outside of the city limit asking for inspections. This bill says, on page 6, lines 13-16, that a city may provide a private contract with an individual to provide an inspection outside the city limit. This would allow them to do that. What they lack is the enforcement authority. They do not have the authority to order certain things to happen, but they could provide the inspection. A number of insurance companies and banks are getting to the point where they are starting to require

homes to be inspected before loan money is available or for insurance to be provided.

What we have done in section 6, page 7, is to state that the inspectors out in the field need to be qualified. Our state inspectors that go out and do electrical and plumbing inspections are journeymen. They are licensed by the State of Montana. Originally, that is what we put in the bill, that the city inspectors would have to meet the same qualifications. This was terribly onerous to the cities. So we did modify it somewhat by saying that if they are certified by ICBO, then that would be OK. That is a less stringent requirement but certainly there should be some standards. That is what we are trying to do: set standards for the inspectors. And if the issue is safety, then this fits the bill for that. (He gave an illustration of a true story that happened in Billings that the inspector did not know what he was looking at in an electrical panel and went back to his vehicle to read up on it. Then he returned to the inspection site.)

Another point is that the bill states that if the city does not meet certain standards, they should be decertified and that should be done in a prompt manner. This again address public safety and health, which you will hear a good deal about from the opponents. If they do not have qualified people in their departments, we should remove their certification quickly. The state should assume the responsibility because that is where the authority has come from in the first place. And if they have deficiencies, they should not be allowed to continue inspecting projects.

Lastly, there is an effective date on this bill. I originally thought it should be July, 1997 because of the constitutional issue that is in the front end of the bill. I did not want that to carry on and on. The House, on the Floor, changed the effective date to July 1, 1998. I think that is too long. As a compromise I would like to suggest that you remove that section completely and let this bill become effective in October, 1997. That gives the state time to plan for this. It gives the cities time to plan for this. And it needs a period of time when we are in a down cycle as far as construction is concerned. It is a low point going into the winter. I feel this would be appropriate.

With that, **Mr. Chairman,** I will sit down and let others speak to the bill. I do have a letter **(EXHIBIT 2)** addressed to the committee and to **SEN. TOM KEATING,** from one of his constituents, that I would like to submit.

{Tape: 1; Side: A; Approx. Time Count: 9:28 AM; Comments: N/A.}

Proponents' Testimony:

Steve White, Bozeman. I am here to testify in support of this bill. As the sponsor stated, this is not an "anti-building

permit" bill, but corrects an injustice in our legal system that has been part of Montana statute for the last 25 years. This is an issue of a government (city) taking money and exercising authority over people outside of their limits. This is taxation without representation. I will hand in a copy of my testimony **(EXHIBIT 3).** Even the Mayor of Bozeman said in a letter to me that he felt it was not right that the donut areas are regulated by officials that they cannot even vote for. My father could not be here today because of calving but I would like to introduce his testimony **(EXHIBIT 4).** He was a County Commissioner in Gallatin County for a number of years as well as County Assessor. Thank you for your time.

Mary Westwood, Director, Governmental Relations, MT Sulfur & Chemical Co., Billings. We are outside the city limits of Billings with our plant and offices in Lockwood which is an unincorporated community. MT Sulfur takes waste gases from the Exxon refinery and takes out sulfur and makes products such as fertilizer, etc. We are one of the few remaining independent sulfur companies in the U.S. We are here today in support of HB 388 and in particular we are interested in section 2. When an exemption was made in the last legislature for petroleum refineries, sulfur plants were not included. The fact is that both the Conoco and the Cenex refineries in the Billings area have sulfur plants within their borders. We are an independent sulfur plant and therefore we are concerned that we are not covered by the exemption. In practice, the City of Billings' building inspection people have never been to visit us. They have given us a pass for some 40 years and we want to be certain that continues to be the case. People who are concerned that industrial process facilities are not adequately inspected don't understand the nature of my job and that is to deal with government agencies of every kind. I have participated in more inspections that I can name. In addition, we have an insurance policy which we specifically picked so that we would receive a yearly inspection of our boilers and any other industrial equipment. We like to have this expertise in addition to our own engineering staff so we can keep up to date. Our plant is one of the safest sulfur plants in the country. We have even been called upon to testify in other cases where incidences have happened. We hope to maintain that record of safety for ourselves and for our community and we believe we are entitled to the kind of exemption that the petroleum industry receives. Thank you very much. I hope you can support this bill.

Don Chance, MT Building Industry Assoc. The industry's position on the current building codes administration is fairly complex. We feel like we have been walking on egg shells concerned that this bill could be misinterpreted. Our positions on this topic don't come lightly. We have been discussing the building code administration for several years. It should be noted that while we support the majority of the components of HB 388, we in the industry did not originate this bill. **REP. SIMON** has taken his own look at the current problems and has come to essentially the

same conclusions that we have. Frankly, he has put a great deal of time and energy into this effort and we appreciate it. The industry has been and continues to be steadfast supporters of rational building codes when administered fairly, efficiently and with common sense. We support basic code provisions because first, they provide us an important safety protection to an unsuspecting public; second, they do help to provide liability protection to builders who build to the codes; third, they provide an important field check to their own work. If we make a major mistake in our construction practices we want that mistake caught so that we can correct it. And fourth, code inspection does provide some comfort to the consumer and the client that a reputable builder welcomes. We never object to having a third party come and take a look at that work. Having said all that, the current system has outgrown its current design. There are administrative abuses that continue to occur primarily at the municipal level. Overcharging and inappropriate use of permit fees to finance other general fund purposes is a continuing problem. There are some administrative oversights that should not have occurred in the state Buildings Code Bureau. I know they are gearing up to try and correct that. There are inconsistencies in interpretation and legitimate questions about citizens being regulated by entities where they have no representation.

In our minds, however, the largest problem beyond the immediate concerns of overcharging and fund transfers at the city level, is the bizarre patchwork of code enforcement areas and non-code enforcement areas across the state. Currently we can build the same house in three different locations. In one location, we may go through five or six fairly rigorous inspections and will pay for those inspections. The second house, identical to the first one, may only have two inspections: one for plumbing and one for electrical. The third house, in a non-code jurisdiction, isn't going to get any inspections whatsoever. The current system doesn't make any sense at all. We have a hodge-podge or patchwork that is causing these problems. To some extent, it is no one's fault but at the same time it is everyone's fault. HB 388 will fix many of the current problems related to the public administration system. But more importantly, this bill will initiate a more deep-seated policy discussion in the interim about how to fix the overall system.

Our current system is not geared to the kind of building volumes that are now occurring in the state. Down the road, you may see the industry recommending that the certified cities program be completely eliminated and replaced with a statewide code enforcement function by the state Building Codes Bureau. To do so would require some significant changes but it would also get consistency and efficiency across the state, something we do not currently have.

We have no position as an industry on the question of the extra territorial authority. We see that as a constitutional question.

We would ask if the bill moves forward that this provision and other provisions related to the potential city decertification that the Dept. of Commerce be given the flexibility to expand their services to these former code enforcement areas. We see a potential problem in that if the Dept. does not have that capability to extend into that area, we are going to be sitting out there with a real logistical problem. The Dept. must have the ability to be able to staff up quickly to take that responsibility over if a city decertifies. We should note that at this point, our experience with the state Building Codes Bureau almost uniformly has been very positive. We find them to be more efficient than many of the city jurisdictions. The current cost structure is only about half of what the cities charge us for a building permit. We find them to be faster, more efficient and more cost effective than services from the municipalities.

We strongly support the provisions on page 5 requiring the Department oversight of certified city programs. We have been forced to bring legal action in this area and we are considering further legal action to correct problems in city administration that should not exist in such a simple area of government administration. A stronger oversight by the state for what is a state program would correct that.

We also support the requirement of licensure or certification of inspectors. The state Building Codes Bureau already requires this of their own individuals. The current bill draft has language in it that require certified cities to have that requirement or ICBO certification.

Finally, we would like to insure that all the committee members understand that these comments are not a personal criticism of the professional inspectors of the departments. As an industry we have a great deal of respect for both **Jim Brown** and all his people at the Building Codes Bureau and for many municipal departments and their inspectors.

I have a letter **(EXHIBIT 5)** that I would like to hand out from the Home Builders Assoc. of Billings. They are in strong support of HB 388. Their main concern is about the indirect cost factors that the city has been charging.

Kim Hughes, Unifield Engineering, Billings. I have a prepared statement **(EXHIBIT 6)** from our President, Jim Stevenson, who could not be here today.

{Tape: 1; Side: B; Approx. Time Count: 9:48 AM; Comments: LOST ONE SENTENCE OF MS. HUGHES.}

SEN. DALE MAHLUM, SD 35, MISSOULA. I am in support of HB 388 and will hand in a statement **(EXHIBIT 7).**

Opponents' Testimony:

Peter Blouke, Director, Department of Commerce. I debated as to whether to stand as a proponent or opponent of the bill because I think there are many aspects of this bill that are very good and I appreciate the tremendous amount of time and energy that **REP. SIMON** has put into this. He has become very knowledgeable and had imparted a good bit of that knowledge to me. There is a serious issue with the extended jurisdiction question that as the bill is currently written we would have to stand in opposition to. Without repeating a lot of the testimony that you have already heard, I would like to present some amendments that we have put together that will address many of the issues that **REP. SIMON** has raised. If I may, I would like to walk you through these suggested amendments **(EXHIBITS 8, 8A, 8B, 8C, 8D, 8E, 8F, 8G, 8H)**. I have discussed them with **REP. SIMON**. With these amendments I feel we would have an excellent bill. He then explains each amendment.

{Tape: 1; Side: B; Approx. Time Count: 10:03 AM; Comments: N/A.}

Al Hanson, MT League of Cities & Counties. I will be the first to admit that we don't have a perfect building codes system in Montana. Essentially what we have is kind of a hit and miss system of building code inspections. Fifty-seven cities and towns in Montana do building code inspections and 61 out there don't do them. That is a problem. The state does some and they don't do other types of inspections. There is only one county in this state that really does building code inspections. It does need to be fixed but this bill won't fix it. I would like to review the amendments. I believe it sounds as though they go in the right direction. There has been lots of discussions, animosity, etc. two years ago. There were several efforts to bring the bill off the table in the House and failed by narrow margins. But there has been no resolution. I have facts from three cities **(EXHIBIT 9)** that indicate that the cities are not charging too much. Billings did have a surplus in their building codes account several years ago. There is a fluctuation in building cycles and cities should have the ability to carry reserves that will carry them through the lean times of this business. Great Falls is well balanced. Kalispell is in the same good shape. You hear that taxation without representation is not good. But that authority was given to the cities by the legislature in Chapter 366 in 1969 and that authority is part of the hit and miss system that we have. If the cities do not conduct those inspections in the fast growing areas of Montana, who is going to do it? We need to find a way to get this done in a good manner and keep the people protected. We are willing to work with any concerned parties to find the best way. I do have a problem with the six month reserve limit. It could well affect the small towns. This cost allocation program that has been proposed is another big problem. It would require 57 cities and towns to change their method of accounting. That is a mandate and to avoid a mandate is to seek to decertify the program and

that is not good. We don't want to shut down city programs and we don't want people out there feeling that they are not being represented. We want a good, solid effective building code program in Montana. HB 388 will not help building code enforcement in Montana. I would like to introduce three letters, two from Bozeman **(EXHIBIT 10 & 10A)** and one from Great Falls **(EXHIBIT 11)** that are in opposition to HB 388. Thank you.

W. James Kembel, MT Technical Council, Billings. I am coming to you on behalf of the design professionals of Montana. The Tech Council represents the architects, engineers, land surveyors and landscape architects. We are keenly interested in maintaining uniform codes statewide. I do like the sound of **Mr. Blouke's** amendments and would like to look at those with my clients. I will hand in a prepared statement of concerns with the proposed legislation **(EXHIBIT 12).** For these concerns, we oppose HB 388.

Bruce Bender, Director, Public Works, Missoula. The thing you want to keep in mind is we are talking about public safety **(EXHIBIT 13).** We disagree on the issue of governance. We should focus on safety. We have been carrying the burden of inspection in the county. We are acting as agents of the state. We have a large residential growth outside the city limits. Since the state does not inspect single dwelling units, the state gave the authority to the cities to inspect these units within a 4½ mile radius. We are concerned with our growth. We have had a 2% average growth in Missoula over the last 30 years. These growths could be future city properties. Our city fire departments are out there now because we have a mutual agreement with the rural fire departments. We do not want to lower the safety for those homes and not have them inspected. The other issue is about what fees we charge. We have done some analysis and have come up with an indirect cost factor of 45%. In looking at our budget, we do not put the direct utility cost and the direct repair of equipment cost in the budget. We followed the U.S. Office of Management and Budget method for calculating this indirect cost factor and came up with 45%. We are charging basically 40% currently. We surveyed other cities and would hand in our findings **(EXHIBIT 14).** I have some letters from some concerned engineers and architects **(EXHIBITS 15, 15A, 15B, 15C, 15D, 15E, 15F, 15G).**

{Tape: 1; Side: B; Approx. Time Count: 10:20 AM; Comments: N/A.}

Kim Palmieri, Billings. One of the major concerns here is public safety. I have some handouts **(EXHIBITS 16, 16A, 16B, 16C).** The first handout is a page from the 1994 Uniform Building Code. These are minimum standards that are enforced. They protect life, health, property and public welfare. The next handout is a booklet from the insurance industry evaluating building-code effectiveness. Good building codes help reduce insurance costs. The next handout is another page out of the Building Code. This page addresses requirements for hazardous occupancies. The last handout is the front page of the Hazardous Materials

Classification Guide. The point of this is part of this bill wants to exempt industries such as fertilizer plants and chemical plants. This bill reduces public safety. We think the proposed amendments might be good and would like to review those.

Gloria Paladichuk, Richland Development, Sidney. We oppose HB 388. Our volunteer fire department and the Mayor are concerned about this bill. The exemptions for industry has potential for major disaster. There was a fire at the Holly Sugar Plant. Holly Sugar is a good neighbor and they have all the necessary inspections. However, we might not be so lucky if other industries locate in our city and not need the inspections. Safety of our volunteer fire fighters is a prime concern of ours. Our fees are reasonable. We have a county building program with no serious problems. We are 530 miles from Helena. During the oil boom we had two California contractors that built an entire rural subdivision. At the end of one year, there were monstrous cracks. So please don't pass a law that will burden small communities and jeopardize our volunteer fire department lives.

Paul Gerber, Billings Fire Marshall. I know that **REP. SIMON** is sensitive to life safety issues but with this bill we feel that the life safety issues have been by-passed. Some provisions of this bill could jeopardize life safety. The Montana State Fire Chiefs' Association prepared an Emergency Resolution #1 **(EXHIBIT 17).** It was adopted by this Association just this last fall. We are in agreement that there must be an adoption and enforcement of building codes for all residential and commercial buildings in Montana. The Montana Chiefs are concerned about life safety issues. We have been asked why we haven't prepared a bill to cover every single residential structure in Montana. We don't have the resources and the logistics are not good. We don't want to lose what we already have in place. And that is the 4½ mile jurisdiction area. If this bill is passed, the following might fall through the cracks: rescue or escape windows, the fire-rated sheet rock, solid core doors between home and attached garage, and the testing of L-P natural gas lines and properly installed furnaces. Rural areas experience a larger per capita loss from fire than urban areas. The longer response times are a factor. So those homes need to have as much if not more inspections. Montana ranks eleventh in the nation in per capita fire deaths. The Billings Fire Department stands in opposition to HB 388. And the Montana State Fire Chiefs' Assoc. stands in opposition also.

Charles Brooks, Yellowstone Board of County Commissioners. Yellowstone County rejects this bill as it stands. The County is working with the City of Billings in a restructuring of the city building department. As part of that restructure, the County is looking at agreements that will more actively empower them in the county 4½ mile jurisdictional issue. If this bill passes as written, Yellowstone County has already decided that they will consider building codes under their own jurisdiction. This may not be the most cost effective way of handling building inspections. We encourage you to look at the amendments from the

Department of Commerce. We would be in agreement with those amendments.

{Tape: 2; Side: A; Approx. Time Count: 10:36 AM; Comments: N/A.}

Ron Ashabraner, State Farm Insurance. We have some concerns about the original language. I am not sure what my company would think of the amendments. But I feel that they would certainly be worth reviewing. State Farm's concern is that the practical necessity of building code requirements is rooted in the most basic tenets of public safety and public policy. You can't promote any measure that promotes either no codes or codes without resources which provides responsible enforcement. The severity of losses that we experience in the rural areas are far more dramatic than those that we find in the venues controlled by codified standards. Thank you.

Brandt Salo, Building Official for Helena and President of the MT Chapter of ICBO. I have some additional amendments **(EXHIBIT 18)** that are somewhat related to those that have been proposed by the Department of Commerce. I think in looking at those, they are a step in the right direction. Otherwise our organization would stand in opposition to HB 388. I would like to go briefly through the four amendments. Thank you.

Craig A. Kerzman, Kalispell. I would like to expand on the definition of public that was given earlier. The public is every citizen in Montana, not just those who come into a building like this. HB 388 is going to drop a lot of families through four-plexes. The public will suffer. The effective date of July 1998 is the date we would like to stay with. I will submit my testimony **(EXHIBIT 19)** and two newspaper clippings **(EXHIBITS 20 & 20A).**

SEN. DEBBIE SHEA, SD 27, BUTTE. I have received a letter from the Butte-Silver Bow Chief Executive, Jack Lynch **(EXHIBIT 21)** in opposition to HB 388. I will quickly read it and submit it. Thank you.

{Tape: 2; Side: A; Approx. Time Count: 10:43 AM; Comments: N/A.}

<u>Questions From Committee Members and Responses</u>:

SEN. WILLIAM CRISMORE asked **Mr. Blouke** if these amendments were offered in the House and if they were not, why not? This bill is so complex and so controversial it seems as though the Department should have been involved long ago. **Mr. Blouke** said no, the amendments were not offered in the House. They did not have them developed at that point. And he will assume responsibility for this. Part of the reason is that he was very new at the Department and didn't understand all the issues. He had discussed with **REP. SIMON** the bill at some length. His thought at that time was for the Dept. to remain neutral and get a sense

of what the Legislature might be feeling. Subsequently, after learning a bit more, he felt it was important to bring these issues forward. The amendments do address substantively the issue of representation and the constitutionality.

SEN. SHEA asked if the cities do decertify, where is that going to put the Department in terms of their ability to take over? **Mr. Blouke** said that he was not sure what the ramifications would be if all the cities and town were to decertify. He would defer to **Jim Brown** on additional staff. **Jim Brown, Chief, Building Codes Bureau** didn't exactly recall the numbers of staff the present cities have. Billings has eleven; Missoula has twelve; Helena has five staff members. If all of the major cities were to decertify, obviously what Billings requires eleven people to do, we can't magically do with two people. He would assume that even single family dwellings would fall through the cracks even in the city limits if they were to assume that responsibility. They wouldn't have to have the same exact number of people, but at least 50% of the people. Statewide, looking at the "big five" cities, they would probably need another 20-25 people.

SEN. SHEA stated that the feeling of the room would be that this issue will keep returning to the Legislature until it is settled. Are you amenable to the proposed amendments and would you be willing to work with the Department? **REP. SIMON** said that he is amenable to some of the amendments and they did clarify some of the things that he really had intended to do. The issue about the first three amendments setting up this county jurisdictional area that looks just like the jurisdictional area of the city, where the county would say, yea, city go ahead and take over that responsibility, he would not accept. It reverses the whole thing. The issue is a policy decision when it comes to whether or not they want to cover single family residence. The Department and the cities have known for a long time that he had intended to come in with this bill. There were discussions within the Department and the cities to have all residential properties inspected no matter where it was built. They didn't bring the bill in. The bill is not before you. So that is not the issue. He is trying to put you back in a position where he thinks you ought to be right now. The decision was made by a previous Legislature to exempt these buildings. If you want to eliminate that exemption for all of Montana, that is a policy decision that you should make with a bill. This is not the bill. You should have had the bill. They tried it up in Kalispell to go countywide. It was put on the ballot and the citizens up there voted 8½ to 1 against having the county take over this responsibility. The reason the Dept. and the cities did not come in with a bill is they know it is highly unpopular. And to finish his answer he said that he is willing to work with others.

SEN. STEVE BENEDICT asked about the mutual agreements with the city and rural firefighters districts. Are these negotiated agreements? **Mr. Bender** said yes. The city entered into an

agreement with the rural firefighter districts with mutual response. **SEN. BENEDICT** then asked are your building codes enforcement outside the city negotiated agreements with those residents? **Mr. Bender** said that he would argue with **SEN. BENEDICT** from the government's point of view that you represent them here in the Legislature. **SEN. BENEDICT** said he did not ask that. He asked if the city negotiated those regulations with those people outside the city like they do with the rural fire districts? **Mr. Bender** said it was negotiated with the County Commissioners, so in that context he would say yes.

SEN. BENEDICT asked **Mrs. Paladichuk** what dog Richland County has in this fight. You mentioned Holly Sugar and was your worry that another plant could be built that you wouldn't be able to inspect. **Mrs. Paladichuk** said that her county feared plants could be built without inspections and would cause extra risk to their firefighter. **SEN. BENEDICT** asked her if she was familiar with all the groups that inspect these particular plants as they are being built. **Mrs. Paladichuk** said she was not familiar with these groups. **SEN. BENEDICT** informed her that in the State of Montana industrial plants go through much more rigorous inspections than a part-time inspector in Sidney could hope to conduct. Would you agree with that? No answer was forthcoming.

SEN. CASEY EMERSON stated that the Holly Sugar Plant had been thoroughly inspected and still had a fire. He couldn't quite understand the reasoning of **Mrs. Paladichuk's** worry about other plants. Her answer did not speak to the question.

SEN. JOHN HERTEL asked about the fiscal note and asked if the sponsor had signed it. **REP. SIMON** was glad to address that important question. He felt it was important in this process to recognize that if cities do lose their area of jurisdiction, the state is going to have additional responsibilities. He supports the idea that the state will need the authority to hire additional inspectors. They have $1 million in reserve. They have money on hand and the inspectors are paid with building fees so they would have the money. The problem is authorization. He fully supports authorization either in this bill or HB 2. There were many assumptions in the fiscal note that he did not agree with. That is why he did not sign the fiscal note. He said that **Mr. Brown** was making an assumption in his answer on the number of additional inspectors and it was based on cities decertifying their program and not providing inspection anywhere either in or outside the city limit.

SEN. EMERSON asked if the sponsor was surprised to hear that everyone who was opposed to the bill talked about safety first. The sponsor's last remark was about the fact that this is an unconstitutional situation we have and no one seems to address or complain about that. Yet the Constitution is what we all live under and deal with. That is the more important question. At times, it isn't very handy or cheap, but we are under the Constitution and we have here an unconstitutional situation.

REP. SIMON appreciated the question. It is the central issue whether or not we are going to allow a foreign government to govern citizens inside the State of Montana. That is what is going on right now. They love to talk about fire, safety, etc. and they could have brought the bill in that said all residential structures will be inspected. And again, the reason they didn't was they knew it would be extremely unpopular. The "hats and boots" would be here in force.

{Tape: 2; Side: A; Approx. Time Count: 10:56 AM; Comments: N/A.}

Closing by Sponsor:

REP. SIMON closed. This may sound like a Billings problem, but I can tell you **MR. CHAIRMAN,** that it is not. It is a problem in Bozeman, in Missoula, in Kalispell, in Billings and other cities around the state. Yes, I am heavily involved in Billings, but my research shows that it is a problem all around the state. In Kalispell they had a public vote to have a countywide program. It was rejected by 8½ to 1. We had a public hearing in Billings. Five hundred people showed up. One person spoke in favor of Billings' position but everyone else showed up to speak in opposition. The opponents here today use a loophole.

Yes, there is a need for more personnel at the state level. I understand that and authorization needs to be given to the Dept. so that they may hire additional personnel if needed.

As far as the amendments from the Dept. are concerned, I don't accept the first three amendments that were proposed. The rest I do not have an objection with. They clarify my bill.

There was talk about reserves in Billings. They changed the county procedures because a year ago they provided their state and city auditors a set of figures that showed that, in fact, over a four year period the excess was $1.5 million that had been used by the city's general fund. They said, well there wasn't any reserve. They had spent the money. It was only after the building people threatened to sue them because they wouldn't fund the reserve account that was set up last July, that they now have come up with new figures and today there is $250 thousand in this reserve. Their additional response was, no we are starting from ground zero. Forget what happened in the past. We already spent that money. They changed their tune because they have been threatened with a law suit.

As far as fires are concerned, it is a great thing to talk about fires and frighten all of us. But the fact of the matter is, all the houses being built here in the Helena valley that go outside the city limits aren't part of this because Helena doesn't have jurisdiction over them. Neither does the City of Great Falls have jurisdiction outside their city limit. All the houses that are built outside of their jurisdiction have not been causing

problems. Are we having greater numbers of fires outside the city limits of Helena and Great Falls? No. There was an article about this extended jurisdiction in the Gazette back in December. Ironically, in the same paper was an article about a fire that occurred in a chimney because of cracks and holes and this was in an area inspected by the City of Billings. They do make mistakes. In Richland County they are concerned about the hockey rink. Well, that is a public building and will be inspected anyway.

As far as the indirect cost, I would like to point out that this is an issue you heard and that the City of Missoula needs 45%. I went to the Auditor's office downstairs and the language on page 5 of the bill (originally I said they could have up to 10%) the language was reconstructed in the House and we inserted the language giving them the authority to do exactly what the City of Missoula does. If their county procedures are set up in such a way that they don't charge a lot of things into the direct cost and use it as indirect costs, they can do that under the change. But they have to treat this department like the other departments. They can't create a separate kind of accounting procedure for the building codes department that is not used for all the other departments in the city.

What this bill comes down to is an issue of the Constitution. If you believe in the Constitution and if you took an oath to uphold the Constitution, you will vote accordingly. The amendments that were proposed reiterated that this is the issue. They didn't argue that issue with you, did they? They know I am right. They came in through the back door and presented arguments about codes and fires. I would hope that you would recognize the red herring and recognize that they recognize it. I am right and you are right, **SEN. EMERSON.** It is a Constitutional problem and that is the reason it is before you. If they want to have a bill to cover all residential property in the State of Montana, let them bring in the bill. I would appreciate very much your concurrence in this piece of legislation.

{Tape: 2; Side: A; Approx. Time Count: 11:12 AM; Comments: A 10 MINUTE BREAK WAS TAKEN.}

HEARING ON HB 399

Sponsor: REP. CARLEY TUSS, HD 46, BLACK EAGLE

Proponents:
- Darryl Bruno, Asst. Administrator, Addictive & Mental Disorders, Dept. of Health & Human Services
- Steve Meloy, Bureau Chief, Professional & Occupational Licensing, Dept. of Commerce
- Mary McCue, Licensed Professional Counselors
- Gloria Hermanson, MT Psychological Association

Opponents: None

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3-13-97
BILL NO. HB 388

Stone Container Corporation
Containerboard and Paper Division
Mullan Road P.O. Box 4707 Missoula, Montana 59806-4707

406.626.4451
406.626.5986 Fax

March 12, 1997

Representative Bruce Simon
Capital Station
Helena, MT 59620

RE: Support of HB-388 - Uniform Building Code (UBC) Exclusion

Dear Representative Simon:

I can assure you of our support for HB-388 which excludes process industry from the Uniform Building Code. We support the bill for the following reasons:

1. We employ recognized industrial fabrication and construction standards such as: American Society of Mechanical Engineers (ASME), Occupational Safety and Health Administration (OSHA), American Society of Testing and Material (ASTM), American National Standards Institute (ANSI), National Fire Prevention Association (NFPA), and Factory Mutual (FM). Each of these agencies is recognized for the highest of standards for safe construction.

2. Most of our construction involves process controls and equipment that are unfamiliar to inspectors. Educating a building inspector seems to be an unreasonable demand on mill personnel.

3. Duplication and conflicts between an industrial standard and the UBC could cause unnecessary delays in a project.

The UBC exclusion will not jeopardize the health, safety, or welfare of any of our employees because our existing standards demand equal or better construction and operating criteria. We plan to continue providing a safe and healthy place of work.

Sincerely,

Russ Anderson

Russ Anderson
Plant Engineer

sp

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 3-13-97
BILL NO. HB 388

My name is James Archer. I regret that conditions of health within my family prevents the personal delivery of my following comments to this committee — and I thank the unknown person who will speak them into the record in my stead.

I would like to begin by expressing my gratitude to our forefathers for this democratic system which permits my participation in the affairs of government. What a legacy this is, to have established a method whereby the people, through their voice, determine and consent to the laws and regulations they shall have imposed upon them. Freedom of choice and consent. I am humbled by the thought that each of you here has been chosen by the voice of the people to represent their interests — and above all — have been entrusted to uphold and defend our system of self determination. As we all know, this system of democratic consent is established and maintained by our national and state constitutions. Of all principals set forth in them, the most sacred and fundamental right of all is the people's right to representation and consent in what shall be imposed upon them. We, as a nation, routinely shed the blood and resources of our own people all over the world to give others this fundamental right. It is so elemental to our society, that your oath of office simply states that you do solemnly swear that you will support, protect, and defend the constitution of the united states, and the constitution to the state of Montana.

In the current matter, you are called upon to make a decision once again by our democratic processes. I submit to you, that you truly do not have any decision to make. The decision is fully precluded by your oath of office.

If I were standing here today, proposing a law that would vest only a certain group of citizens with the power of self-determination including the police power to enforce those indigenous determinations not only upon themselves, but also upon other excluded citizens without their consent or representation; you would not — and could not — seriously consider it for one moment. Simply because such a proposal is constitutionally forbidden and repugnant to our democratic system. You could only dismiss it as fundamentally flawed and impermissible.

Yet, incredibly, such a constitutionally violate measure has in fact found its way into our state laws and must be eradicated.

There is no decision to be made. There is no debate. We are constitutionally bound to strike down all that is repugnant to that which we hold sacred.

This issue has absolutely nothing to do with building code.

The question here, is whether the members of this legislature will fulfill the public trust and their sworn duty to boldly uphold the constitution, or whether they will compel the very citizens they represent to seek the sanctuary of the courts to secure their fundamental rights before government.

The March 12, 1997 Billings Gazette contains the following absurd and frighteningly dangerous statement:

"But Alec Hansen, president of the Montana League of Cities and towns, said it's not a constitutional rights issue because the state Legislature gave the cities the authority to govern building codes."

By veiled Freudian slip, Mr. Hansen actually has said, the state legislature gave the cities the authority to govern county residents without their representation or consent. This is a pure statement of fact. The previous legislature has indeed put into place that which is constitutionally forbidden and now must be eradicated.

Mr. Hansen, and all who think like him, are not only misguided with false priorities, but endanger the very foundation of our constitutional legacy.

This may be the single most definitive blow for freedom you have ever been privileged to boldly strike. I envy you your right to do so. I ask only, that while you are casting your vote by your democratic process, you bear in mind that I, as a county citizen, have been denied both my right to representation, and my right to vote upon that which is being imposed upon me without my consent.

The power exercised by each element of local government must be confined to its specific governmental participants and must not be permitted to encroach upon the authority and decisions of another sovereign governmental entity.

Confirmation of this realization by an insightful few may be found in the files of the Bureau of Building codes yielding the following letters from the Flathead County Board of Commissioners which read in pertinent part:

> The Flathead County Board of Commissioners are unalterably opposed to the City of Kalispell assuming any authority out- side of

their corporate city limits for the purpose of Zoning, building permit systems, regulations or anything that could be considered regulation without representation. September 2, 1977;
and,

What is being suggested by Senate Bill No. 401 is, in our opinion, regulation without representation and the people of Flathead County living outside of the incorporated cities want no part of it. September 16, 1977.

How is it, that this august body cannot since seem to grasp the most fundamental principals of democracy that were fully comprehended and appreciated by three lowly county commissioners back in 1977?

In closing, I request that my following transmittal be read into the record of this hearing:

Dear senator Keating, Re: HB-388

I have been asked to contact you on behalf of approximately 150 of your constituents including nearly 90% of Echo Canyon area property owners. As our representative, we strongly urge you to support this Bill and the compelling need to abolish the wrongful enforcement of indigenous Municipal Building Codes and fees over County residents. While you may personally desire that more stringent building regulations be placed upon the property of County residents, this is clearly the wrong way to accomplish those desires. Please carefully consider the following and support our strongly felt position to the benefit of all Montanans.

The legislature has previously carefully determined and defined to what extent government may necessarily invade the citizens' homes and private property in fulfilling its perceived obligation to insure the health, safety, and welfare of the 'public'. This standard of necessary invasion uniformly applies throughout the state. At the same time, the legislature has provided that those citizens comprising a local government may, only by their own processes of self-determination, establish other parameters and further invade their own homes and private property in the interest of perceived 'public' safety. However, that these indigenous self-determinations by citizens comprising and participating in one government, may then be summarily imposed and enforced upon other non-participating citizens

comprising another governmental entity without their consent, poses a most serious Constitutional question indeed. Extended municipal jurisdiction is repugnant to our democratic system of government.

THESE WRONGFUL AND REPUGNANT PROVISIONS MUST BE ABOLISHED! Please support HB 388.

Thank you

County Property Owners Against Municipal Authority
James M. Archer
8030 Molt Rd., Billings
PH. 652 - 4944

I stand at the beck and call of any person or this committee wishing to engage in debate of these or any related matters as may be desired.

Thank you

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 3-13-97
BILL NO. HB388

Testimony in Support of HB388
R. Stephen White

Mr Chairman, members of the committee, my name is Steve White. I am here to testify in support of HB388. My family owns a ranch 3 miles from the city limits of Bozeman. This ranch has been in our family since 1865, soon after the city of Bozeman was founded. Since 1971 we have been required to comply with the city of Bozeman for building permits for ANY TYPE of structure we need to build.

In the last legislative session a similar bill, SB 227 was introduced. It was narrowly defeated in the House. Two weeks after testifying in support of that bill, officials of the City of Bozeman came on to my property and determined that my power inspection had been done by state officials, rather than city. They contacted the state office and requested that my permit (I had received it 10 months prior) be revoked. The state complied. Next they contacted Montana Power and informed them that I had no permit. They demanded that my power be shutoff. Montana Power complied. I was without power for 5 days, until a city inspector could do the inspection and issue a permit. The irony of this event is that the state inspector was fully certified, and the city inspector was not certified for electrical inspections. This is an example of the power and control that the city of Bozeman has over non-city residents.

One key part of this bill will repeal the section of law that allows the city to extend its jurisdiction up to 4.5 miles beyond their city limits. To repeal this statute returns our area to our county, for purposes of issuing building permits and doing inspections. This does not affect zoning or planning.

This bill is NOT an "anti-building permit" bill. This bill simply corrects an injustice in our legal system that has been part of Montana statute for the last 25 years. This an issue of a government (city) taking money and exercising authority over people outside of their limits. This would be the same as Wyoming intruding upon Montana citizens' lives.

In the last two years I have written checks totaling nearly $2000 for building permits for our home and two outbuildings. To date I have recorded less than ONE HOUR of inspection time by city inspectors. Passage of this bill will not get my money back, but will return fairness to our rural community.

The opponents of this bill are the cities. They do not want to loose that permit fee money. The City of Bozeman takes in over $350,000 annually that goes into the general fund. They are required by law to charge ONLY what is needed to do the inspections. **This is a major revenue source, when it should not be.**

We are NOT permitted any voice in the city government, NO votes in the city elections and NO city services. Our government is NOT the city, but the county and state. Presently we are forced to pay exorbitant amounts to the city for building permits for all structures. **EVEN FOR ANIMAL SHELTERS.** It is unfair, and to the point of tyranny that our current law allows a city government to extend its authority one inch beyond the city limits, let alone the current 4.5 miles.

The cities have demonstrated a great deal of power in opposing this bill. This is a good bill. It will return our rural areas to our own governments, the counties.

I urge your support of HB388.

OPPONENTS ARGUMENTS

***Without this law there will be** 'shanty towns' on the outskirts of our cities.*

There are no shanty towns. If this were true, then we would see them spring up at the edge of the jurisdiction. In the Bozeman area, many expensive and well built homes have been built outside of the doughnut area. Lending agencies require inspections. This bill would allow the home builder to contract with the city for inspections.

***This law is needed to prevent** unsuspecting home buyers from purchasing improperly built homes.*

Several years ago I sold our home. Before we could close the sale we were required to have a radon inspection, electrical inspection, plumbing inspection, roof inspection, wood stove inspection and an encroachment survey. Each inspection was performed by different inspectors. That home passed and was originally built in 1905.

Local control will be lost.

The notion that if the county or state sets up a building permit system I will loose 'local control' is absolutely wrong. There is no local control now. Presently I give money to a government that I have no vote, services or appeal process in.

***It will cost the state taxpayers** more money.*

Presently this law is a 'cash cow' for the cities' general fund. Law requires that the amount of money charged for permit fees equal that which is needed to perform the inspections. There are no taxpayer funds involved.

***City fire departments fear that** fire codes will be ignored and more fires will result.*

First of all, fire protection is generally not provided by the city. Rural residents have their own fire districts. And before fire insurance can be obtained, insurance companies do a complete inspection of the dwelling. If this argument were true, we would see fires all over Montana outside of the present 4.5 area.

***City fire departments fear that** electrical inspections will not be made.*

Montana Power will not deliver power to any meter that does not have either a state or city inspection tag.

***The cities need this law to make** sure future homes that are annexed meet state code.*

In the Bozeman area annexed lots are typically vacant. Property owners must petition the city to be included within the city's limits. The city performs a complete review prior to annexing. In time building codes change. In the Bozeman area it may take 30-40 years to annex 3 miles out. In 30 years the building codes will likely have changed significantly.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 3-13-97
BILL NO. HB388

March 13, 1997

Senator Debbie Shea
Business and Industry Committee
Montana State Senate
State Capitol
Helena, MT 59620

Dear Senator Shea:

This letter is to give strong support to House Bill #388.

I, along with my family, own and operate a ranch that is within the 4 1/2 mile jurisdictional area of Bozeman, as referred to in 50-60-101 MCA. My children are the fourth generation on this ranch which my grandfather acquired after locating in the Gallatin valley 130 years ago.

I am a former Gallatin County Commissioner and Assessor with 22 years of past elected service. I was a member of the County Planning and Zoning Commission for 17 years and the Bozeman City-County Planning Board for 12 years.

During the many years I was in county government I received constant complaints from rural people concerning city jurisdiction over their property and all I could tell them was that County Commissioner authority had been excluded from this area by state law.

House Bill #388 does not prohibit the issuance of building permits or inspections, it only moves the authority on rural property building codes back to our elected county governing bodies. Our present building code laws, which House Bill #388 would amend, allow incorporated cities to adopt and enforce city building codes up to 4 1/2 miles in all directions outside their corporate limits. The extension of these municipal laws by the cities has infringed on our constitutional rights as we in the rural community have no voice in city government. This is not right.

If I decide to build a building in the present 4 1/2 mile area outside the city, I must pay the city a building permit fee, which is a hidden form of taxation. If a building department determines that a property owner has not complied with their city code to an extent that judicial review is necessary, a court action would be filed in City Municipal Court, even though the property was located 4 1/2 miles from their city limits.

City Courts are administered by judges that are elected by city residents. If a jury is required they must be city residents. You could conclude that this rural area has been annexed to the city for building regulation ordinances and enforcement, without allowing property owners a voice in the process. Our state law regarding annexation procedures, among other things, prohibits annexation of agricultural lands, requires public hearings, requires property owners to receive written notice of intent, and disallows annexation if a majority protests.

The present law places our rural property under the control of a non- representative government and allows us no petitioning or protest protection. The opponents to House Bill #388 could argue that the purpose of the present law is to insure that future annexations to their cities could offer a guarantee of safer and better sited structures. However, my observations over the past many years have shown that the vast majority of annexed lands have been undeveloped and vacant. Furthermore, state law does not mandate cities to annex properties. If an annexation request of property contains sub-standard structures, annexation can be denied.

I suspect that any local government opposition to House Bill #388 would be the additional revenues that are being generated that are over and above their operational needs.

If my elected County Commissioners concluded after a study and public hearings that there was a need for building code adoption in the rural areas of Gallatin County, that would be acceptable to me, because it would be my elected representatives making the decisions. Unless House Bill #388 becomes law, the County Commissioners will not even have the opportunity to consider the issue.

I urge you to support House Bill #388.

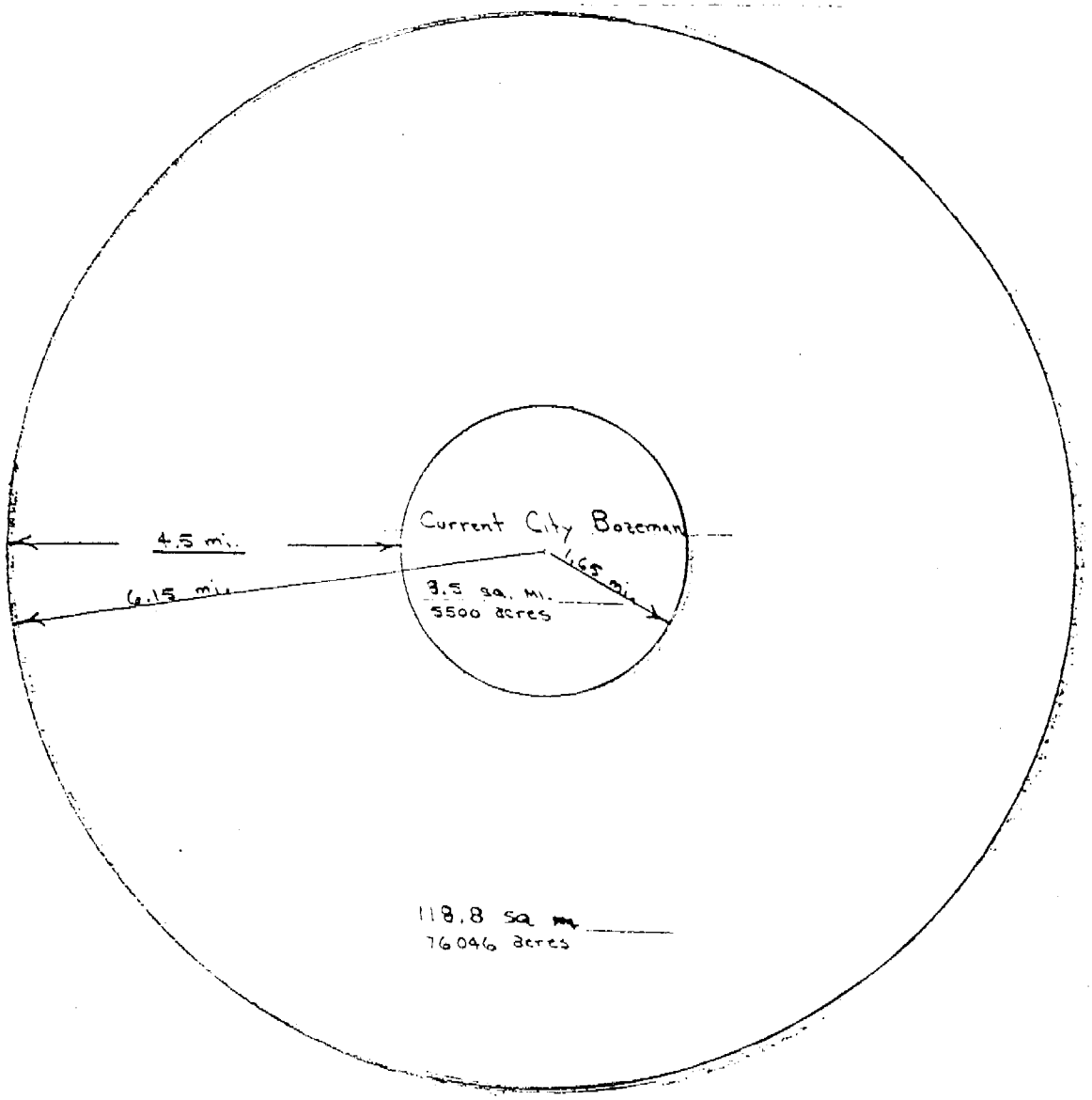
Respectfully,

Ramon Dal White

Ramon S. White
4224 Blackwood Road
Bozeman, MT 59715

587-3683

Attachment



Current 4.5 mi. adds 110.3 square miles/70546 acres to Bozeman i.e. 13 times its size.

One mile adds 13.6 square miles/8620 acres to Bozeman i.e. 1.6 times its size.

1/8 mile adds 1.4 square miles/896 acres to Bozeman i.e. 16% increase.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 3-13-97
BILL NO. HB 388

March 11, 1997

Senator John R. Hertel, Chairman
Senate Business & Industry Committee
Capitol Station
Helena, MT 59620

HOME BUILDERS ASSOCIATION OF BILLINGS

Dear Senator Hertel and members of the Committee:

I had planned to be in Helena for the committee meeting today, however a family emergency makes that impossible. I am writing to ask your support for HB 388.

The Home Builders Association of Billings will not take a position on those parts of HB 388 that reference a city's extraterritorial jurisdiction for enforcement of building codes. That issue is, we believe, a matter between the citizens of the state who would be affected by the legislation, and yourselves as elected representatives of those citizens. While the HBA of Billings and its 275 members remain committed to building codes and their enforcement, we find it difficult to support our city's excessive building permit fees and probable misuse of funds.

The remaining portions of the legislation contained in HB 388, are strongly supported by the HBA of Billings. In particular, I wish to address those sections dealing with the financial aspects of municipal building code departments as they relate to the City of Billings.

I have studied carefully in the past year two sets of financial figures the City Financial Office provided.. I have found that revenue and permit numbers correlate rather well. When construction activity in Billings rapidly declined in the late 1980's (falling from 650 to 79 residential permits between 1984 and 1989), the revenue generated showed a corresponding decline. When construction activity increased again in the early 1990's, the income shows a correlating increase. What is most disconcerting to us is to look at the continual, steady increase in indirect costs over the same time frame using the City's first set of figures. Did the Fire Department and the Engineering Department really need more funds to do dramatically less work? Did it take longer for the data entry and personnel departments to handle fewer employees? The City of Billings may claim that the number of remodeling permits kept the workload high and necessitated the increased costs. The figures I have seen dispute this. In fact, ask anyone in Billings who tried to make a living in construction in the late 1980's , and they will tell you there was little new construction activity, no subdivision development and little remodeling. The apparent lack of any correlation between permits issued, staff required in auxiliary departments to process permits, cost of indirect services and a host of other inconsistencies, has led this association to question how much we have been subsidizing the City of Billings.

P.O. Box 875 ■ Billings, MT 59103 ■ 406-252-7533

What constitutes a legitimate indirect cost? How are those costs determined? How much reserve is enough and when is the amount excessive? Through the National Association of Home Builders, we researched cities that are required to account, to the penny, for any funds transferred to their General Fund for "shared" services. We asked these cities to share their funding figures with us along with the reserve amounts they were allowed. Wichita, Kansas, shared their financial figures with us. They are transferring approximately 5% of their revenues for shared services and maintain a three-month reserve. Your own State Building Codes Bureau only has approximately 6% indirect costs. This legislation doubles the reserve amount many cities in our nation enjoy, and would allow the cities to pay for legitimate indirect costs while assuring those utilizing the Building Department services that the fees they pay are for that service, and that service only.

I am sure the cities will tell you they have not made any money from their Building Departments. Just look at the attached figures and you will see they have managed quite well in Billings. When the State Building Codes Bureau, at the request of the cities, changed the Administrative Rules this spring, without consulting the building industry, to allow for 30% of revenues to be used for indirect costs, our city immediately adjusted its figures from their original estimated 10% indirect costs to 30%. They took this 30% back through 10 years of accounting for the local department. (I have read the new rules carefully. There is NO provision for retroactive application of the rule.) This action resulted in $250,000, not $750,000, being transferred to the Building Department's Reserve Fund in August of this year. The resulting loss to the reserve fund from the rule change was $500,000. When our City Administrator was discussing this legislation with me he stated: **"It's only half a million. That's not much."** Not much! A hundred dollars is a lot to some people who have paid that money to the city for a building permit.

This legislation is necessary to define what a city may and may not do when it is given the privilege and responsibility for running a code enforcement program. I ask you to please support HB 388.

Thank you for your time and consideration of these remarks.

Sincerely,

Gay A. Rye

Gay A Rye
Executive Officer

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 6
DATE 3-13-97
BILL NO. HB 388

UNIFIELD ENGINEERING, INC.
2626 LILLIAN AVENUE
BILLINGS, MONTANA 59101
U.S.A.
FAX: 406-245-7112
TEL: 406-245-4455

March 13, 1997

Senator Debbie Shea
State Capitol
P.O. Box 201401
Helena, MT 59620-1701

RE: HB-388 - LETTER OF SUPPORT
INDUSTRIAL EXCLUSIONS FROM THE UNIFORM BUILDING CODE (UBC)

Dear Senator Shea,

UniField Engineering supports the exclusion of process industries from UBC oversight for the following reasons:

- **Over-regulation** Residential and commercial buildings need only comply with the Building Codes, whereas industries are governed by the Occupational Safety and Health Administration (OSHA), the National Fire Prevention Association (NFPA), the National Electric Code (NEC), the American National Standards Institute (ANSI), American Society of Testing and Materials (ASTM) in addition to the building codes. For example, OSHA already mandates provisions such as building egress in the event of a fire or explosion.

- **Fire Safety Training and Onsite Brigades** The majority of industrial facilities require their staff to complete extensive fire safety and emergency response training on a periodic basis. Additionally, many of the facilities maintain onsite fire brigades and fire fighters. Most public facilities do not train occupants or maintain fire brigades.

- **Self Regulation** Industrial facility insurance underwriters take great care to ensure that the facility employs the best practices in construction and protection of the physical plant. As a result, insurance companies frequently inspect facilities with a "wall to wall" investigation. Public facilities do not receive this frequency or degree of inspection.

- **Irrelevance** The UBC does not apply specifically to many industrial processes and therefore its application provides no incremental increase in protection. If the building codes were all-inclusive for every industry, OSHA, UFC, and training and inspection by specialty insurers would not be required or even exist.

- **Lack of Inspection Value** The codes themselves, as well as the training of the inspectors, have a direct application for residential and commercial construction. Much of the construction involved in industrial facilities consists of process controls and equipment that are unfamiliar to inspectors. Therefore, it is unreasonable to assume that UBC inspectors are prepared to regulate industrial facilities.

In summary, heavy industry complies with more stringent and industry specific codes than mandated for commercial, and residential buildings and the requirement of these industries to gain building permits is redundant and unnecessary. We thank you for your time and effort in supporting this legislation.

Respectfully Submitted,

James A. Stevenson, P.E.
President

cc: Representative Bruce Simon

UNIFIELD

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 7
DATE 3-13-97
BILL NO. HB 388

MR. CHAIRMAN:
MEMBERS OF THE COMMITTEE:

I SPEAK AS A PROPONANT OF HB 388.

THANK YOU

DALE MAHLUM
S.D. 35

MARCH 13 1997

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8
DATE 3-13-97
BILL NO. HB 388

AMEND HOUSE BILL NO. 388, THIRD READING COPY, AS AMENDED

1. Page 2.
Following: line 1
Insert: "(5)(a) 'county jurisdictional area' means the area within the limits of the county unless the area is limited at the written request of the county.
(b) Upon request, the department may approve a limitation of the jurisdictional area to include:
(i) all or part of the area within 4 ½ miles of the corporate limits of a municipality with a certified building code program as provided by 50-60-302(2);
(ii) all of any platted subdivision which is partially within 4 ½ miles of the corporate limits of a municipality with a certified building code program as provided by 50-60-302(2); and
(iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, which is partially within 4 ½ miles of the corporate limits of a municipality with a certified building code program as provided by 50-60-302(2).
(c) Distances shall be measured in a straight line on a horizontal plane."
Renumber: subsequent subsections

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8 A
DATE 3-13-97
BILL NO. HB 388

AMEND HOUSE BILL NO. 388, THIRD READING COPY, AS AMENDED

1. Page 2, line 19.
Following: "~~(a)~~"
Insert: "(a)"
2. Page 2, line 20.
Following: "municipality"
Strike: the remainder of lines 20 through 27 in their entirety
Insert: "unless the area is extended at the written request of a municipality.

(b) Upon request of a municipality with the written consent of the county, the department may approve extension of the jurisdictional area to include:

(i) all or part of the area within 4 ½ miles of the corporate limits of a municipality;

(ii) all of any platted subdivision which is partially within 4 ½ miles of the corporate limits of a municipality; and

(iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, which is partially within 4 ½ miles of the corporate limits of a municipality.

(c) Distances shall be measured in a straight line on a horizontal plane."

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8 B
DATE 3-13-97
BILL NO. H B 388

AMEND HOUSE BILL NO. 388, THIRD READING COPY, AS AMENDED

1. Title, line 7.
Strike: "EXPANDING THE TYPES OF BUILDINGS EXEMPT FROM BUILDING CODES;"
2. Page 3, lines 23 through page 4, line 2.
Strike: subsection (c) in its entirety.
Insert: "(c) petroleum refineries, except a structure classified under chapter 7, section 701, group B, division 2, and chapter 9, section 901, group H, outside of process units, of the 1991 edition of the Uniform Building Code."

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8 C
DATE 3-13-97
BILL NO. HB 388

AMEND HOUSE BILL NO. 388, THIRD READING COPY, AS AMENDED

1. Page 5
Following: line 19
Insert: "For the purposes of this subsection, a building is considered to be 'during and in the course of construction' until all necessary building permits have been obtained and the municipality or county has issued formal written approvals or has issued certificates of occupancy for the building."

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8 D
DATE 3-13-97
BILL NO. HB 388

AMEND HOUSE BILL NO. 388, THIRD READING COPY, AS AMENDED

1. Page 7, line 25.
Strike: "THE INTERNATIONAL COUNCIL OF BUILDING OFFICIALS"
Insert: "a nationally recognized inspector testing and certification entity approved by the department"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8 E
DATE 3-13-97
BILL NO. HB 388

AMEND HOUSE BILL NO. 388, THIRD READING COPY, AS AMENDED

1. Page 7, line 29.
Following: "certification for"
Strike: "lack of compliance"
Insert: "refusal or failure to comply"
2. Page 7, line 30.
Following: "or rule."
Insert: "The department may allow the county or municipality a reasonable amount of time, not to exceed 6 months, to correct identified code enforcement program deficiencies, unless such deficiencies are an immediate threat to the public health, safety or welfare in which case the department could require immediate correction. Failure to correct deficiencies within the time set by the department constitutes a basis for immediate decertification. Continued operation of a certified municipal or county building code program in violation of a department order to correct deficiencies may be enjoined or subject to a writ of mandamus by a judge of the district court in the jurisdiction in which the county or municipality is located"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8F
DATE 3-13-97
BILL NO. HB 388

AMEND HOUSE BILL NO. 388, THIRD READING COPY, AS AMENDED

1. Page 8, line 3.
Following: "shall"
Strike: "conduct"
Insert: "require"
Following: "annual"
Strike: "review"
Insert: "report from the certified local government"
2. Page 8, line 4.
Following: "rules."
Insert: "If review of the annual report identifies compliance problems the department shall conduct an on-site evaluation."

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8G
DATE 3-13-97
BILL NO. H H 388

AMEND HOUSE BILL NO. 388, THIRD READING COPY, AS AMENDED

1. Page 8, line 7.
Following: "and the"
Insert: "decertified"
2. Page 8, lines 7 and 8.
Strike: "may not be permitted to continue to exercise any building code enforcement authority over"
Insert: "retains the responsibility for completion of inspections and issuance of certificates of occupancy on any"
Following: "projects"
Insert: "previously permitted by the local government, unless the reason for the decertification is directly related to the protection of the health, safety and welfare of the public"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8 H
DATE 3-13-97
BILL NO. H B 388

AMEND HOUSE BILL NO. 388, THIRD READING COPY, AS AMENDED

1. Page 8.
Following: line 8
Insert: "(5) If a local government code enforcement program voluntarily decertifies for any reason, the department must be given written notification of decertification at least 90 days prior to the effective date. The decertifying local government retains the responsibility for completion of inspections and issuance of certificates of occupancy on any incomplete construction projects previously permitted by the local government."

2. Page 8, line 10.
Following: "1998"
Insert: "except for 50-60-302(5) which shall be effective upon passage and approval"

BILLINGS

BUILDING DIVISION FINANCIAL ACTIVITY
FISCAL YEARS 1985 THROUGH 1996

FISCAL YEAR ENDING JUNE 30,	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	TOTAL
TOTAL REVENUES	631,112	637,260	385,663	347,155	344,073	352,160	433,641	543,838	852,178	1,112,795	1,146,944	1,003,309	8,190,728
EXPENDITURES:													
DIRECT COSTS	425,476	450,875	413,494	343,394	362,923	379,756	344,935	339,042	372,065	462,990	441,164	496,953	
ENGINEERING	43,388	43,815	44,253	44,850	45,330	45,825	46,313	53,600	94,575	95,560	97,500	99,450	
FIRE DEPARTMENT PLAN REVIEW	47,437	47,970	48,503	49,036	49,569	80,102	50,635	51,168	51,701	52,234	53,300	54,366	
INDIRECT COSTS	127,642	135,262	124,048	103,018	108,876	113,926	103,481	101,712	111,625	138,897	132,395	149,086	
VEHICLE CAPITAL COSTS	21,360	21,600	21,840	22,080	22,320	22,560	22,800	23,040	23,280	23,520	12,150	11,092	
TOTAL COSTS	665,303	699,582	652,248	562,378	589,026	642,152	568,168	608,562	653,246	773,191	736,499	810,549	7,931,341
TOTAL REVENUES OVER (UNDER) COSTS	(34,191)	(62,322)	(266,585)	(215,223)	(244,953)	(290,009)	(134,527)	335,276	198,912	339,604	410,445	192,760	259,387
CUMULATIVE TOTAL THROUGH 1991							(1,217,810)						
CUMULATIVE TOTAL THROUGH 1992								(882,534)					
CUMULATIVE TOTAL THROUGH 1993									(683,622)				
CUMULATIVE TOTAL THROUGH 1994										(344,018)			
CUMULATIVE TOTAL THROUGH 1995											66,427		
CUMULATIVE TOTAL THROUGH 1996												259,387	
CALENDAR YEAR	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
CONSTRUCTION	23,569,008	7,865,511	16,087,635	7,546,619	8,502,774	10,136,890	17,545,420	20,059,983	17,905,436	17,569,493	33,196,666	32,341,503	
COMMERCIAL (NEW)	111	47	44	38	34	37	56	73	113	113	126	144	
NUMBER OF UNITS	22,193,008	14,881,540	11,293,644	8,699,534	7,645,865	15,258,515	19,617,019	40,780,615	43,149,754	42,951,510	43,501,560	37,383,229	
RESIDENTIAL (SINGLE FAMILY)	220	209	143	100	79	140	197	403	408	407	431	336	
NUMBER OF UNITS													
TOTAL CONSTRUCTION COSTS	45,757,016	22,747,151	27,381,279	16,246,253	17,148,659	25,457,805	37,162,435	60,888,598	61,056,190	60,961,003	76,799,226	69,724,732	521,338,611
TOTAL UNITS	340	256	187	139	113	177	248	476	521	520	557	480	

Updated 12-9-96\0002a

INDIRECT COST IS BASED ON 30% OF THE DIRECT COST LINE ITEM ASSOCIATED WITH BUILDING DIVISION.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 9
DATE 2-17-97
BILL NO. HB 388

FAX

Date 01/29/97

Number of pages including cover sheet

TO: ALEC HANSEN
MLCT

Phone
Fax Phone (406) 442-9231

CC:

FROM: CHERYL PATTON
ASSISTANT CITY MANAGER

CITY OF GREAT FALLS
P.O. Box 5021
Great Falls, MT 50403

Phone (406) 771-1180
Fax Phone (406) 454-3181

REMARKS: ☐ Urgent ☒ For your review ☐ Reply ASAP ☐ Please Comment

CITY OF GREAT FALLS

BUILDING PERMIT REVENUES & EXPENSES

	Revenues	Expenses
1994/95	$340,286	$357,208
1995/96	373,082	418,230
1996/97*	485,465	485,465
1997/98*	559,494	529,054

* projected

City of Kalispell

12 year History of the Revenue & Expenditures of the Building Department

Fiscal year	1997 budget	1996	1995	1994	1993	1992	1991	1990	1989	1988	1987	1986
Revenue Sources:												
Building Permits	$165,000	$185,513	$224,761	$197,692	$139,274	$115,946	$95,967	$66,932	$38,655	$46,392	$60,634	$81,580
Plumbing	$26,500	$25,473	$29,452	$23,730	$17,361	$17,362	$15,420	$10,998	$5,746	$7,659	$8,979	$7,712
Mechanical	$27,600	$28,087	$29,827	$29,542	$21,260	$19,489	$18,003	$7,115	$3,336	$3,012	$4,836	$1,407
Plan Reading	$55,500	$58,375	$71,366	$75,480	$34,593	$33,954	$38,840	$29,662	$14,468	$14,946	$27,655	$33,612
Total Revenue	$274,600	$297,448	$355,406	$326,444	$212,488	$186,751	$168,230	$114,707	$62,205	$72,009	$102,104	$124,311
Expenditures:												
General Fund/Health/Retire	$252,161	$223,502	$223,662	$200,715	$187,988	$152,792	$119,477	$90,278	$81,069	$88,632	$99,686	$107,312
Administration cost-in kind	$25,000	$25,000	$25,000	$25,000	$23,896	$15,000	$15,000	$15,000	$15,000	$15,000	$15,000	$15,000
Work Comp. & Liability ins.	$15,966	$12,695	$12,144	$13,737	$12,982	$7,500	$7,500	$7,500	$7,500	$7,500	$7,500	$7,500
Total Expenditures	$293,127	$261,197	$260,806	$239,452	$224,866	$175,292	$141,977	$112,778	$103,569	$111,132	$122,186	$129,812
Cumulative cash available for reserve : $ 120,509	($18,527)	$36,251	$94,600	$86,992	($12,378)	$11,459	$26,253	$1,929	($41,364)	($39,123)	($20,082)	($5,501)

CITY OF BOZEMAN
Bozeman, Montana

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 10
DATE 3-13-97
BILL NO. HB 388

March 12, 1997

Senator John R. Hertel, Chair
Senate Business and Industry Committee
Room 410
Capitol Building
Helena, MT 59620

Senator Hertel and Members of the Committee,

I am writing in **opposition** to **HB388**. This bill is written to address local problems in specific municipalities and ignores the hard work already done in other areas of the state to address these issues.

If HB388 is adopted as currently drafted, no one will enforce building codes in areas immediately adjacent to the City of Bozeman on buildings containing less than five dwelling units. At present, Bozeman has quality builders doing quality construction in these areas. Without the currently imposed construction requirements, shoddy construction practices will be allowable to the competitive disadvantage of quality builders. There is no public interest in allowing for unsafe construction in areas immediately adjacent to and potentially incorporated into municipalities.

Supporters will claim that the issue is one of control. This is simply not the case. Our concern is solely with safety and we would support solutions which imposed UBC standards on this construction regardless of the reviewing agency.

Supporters will also claim that municipalities concern lies in maintaining the excess revenue attained from building permits. To squelch this assumed practice, HB 388 would eliminate the ability of cities and towns to charge indirect costs to their building inspection program. The bill states that if indirect costs are waived for any local government program, they must also be waived for the program established in this section. To our knowledge, no local government in the State of Montana charges indirect costs on every local government program. Many state and federal grants prohibit indirect costs to be charged. Legally, indirect costs would not be able to be charged against trust and agency funds held by a local government. Under this bill, indirect costs would not be allowed to be charged against building inspection programs. Consequently, this will result in the general taxpayer subsidizing the building inspection programs throughout the state.

Street address: 411 East Main Street
Mailing address: P.O. Box 640
Bozeman, Montana 59771-0640

Phone: (406) 582-2300
Fax: (406) 582-2323
TDD: (406) 582-2301

However, the supporters are ignoring the fact that less than one year ago, representatives of cities and towns throughout the state worked cooperatively with Department of Commerce officials to arrive at a compromise on the use and accounting for building inspection revenues. This compromise required cities to create a separate fund, effective July 1, 1996, to account for the building inspection revenues and expenditures. Indirect costs, up to 30%, are permitted without a formalized cost accounting system. If local governments can prove that their indirect costs exceed 30% then they are permitted to charge a higher rate. Public hearings were held on the proposed compromise. The rules were adopted and are now a part of the Administrative Rules of Montana. The effective waiver of indirect costs in this bill destroys this carefully crafted and hard earned compromise solution to the same issue.

Please oppose HB 388 which will allow unsafe construction practices to proliferate in areas adjacent to cities.

Sincerely,

Ron Brey
Acting City Manager

THE CITY OF BOZEMAN

35 NO. BOZEMAN AVE.
CARNEGIE BUILDING

P.O. BOX 640
BOZEMAN, MONTANA 59771-0640

BUILDING INSPECTION PHONE: (406) 582-2375 • TDD: (406) 582-2301
ENGINEERING DEPARTMENT PHONE: (406) 582-2380 • TDD: (406) 582-2301

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 10A
DATE 3-13-97
BILL NO. H B 388

MEMORANDUM

March 13, 1997

To: Chairman Hertel; Members of the Senate Business and Industry Committee

From: Neil Poulsen, Chief Building Official, City of Bozeman, Montana

Subject: HOUSE BILL No. 388

Currently there is a bill pending in your committee at the legislature to reduce city's jurisdictional area down to the city limits. Additionally in the pending bill there are some guidelines to reduce the reserve fund for building departments and require the State Building Codes Bureau to monitor local jurisdiction's inspection programs. The bill, as written, needs some fine tuning in order to provide a level of safety necessary in the state.

The removal of city jurisdiction in the 4 ½ mile area around the cities would basically open the door to allow anything to be built in any way that people choose to in those areas. When this happens the basic life safety issues that the code promotes are put into second position behind convenience and contractors profits. In addition, the only permits that would be issued for most structures in those areas would be an electrical permit. The only inspections made would be a rough electrical and final electrical inspection. Those minimal inspections are further eroded by the fact that state law doesn't require those inspections to be made under certain conditions. From personal experience being in the construction industry in the county area I can vouch for the fact that in some cases NO inspections are made on some projects. If the electrical inspector has more work than he can handle at the time, then he just doesn't show up for the inspection and the work is allowed to continue without the inspection (as in the case of the project I was constructing)

I would suggest that the bill be re-written to allow county governments to take the 4 ½ mile area around the city boundaries and administer a code enforcement and permitting program or contract with the city code enforcement agency to administer a program. This would solve the issue of "Taxation Without Representation" and provide a level of life safety protection for the community. This would also allow counties some flexibility in

MAR-13-97 THU 09:24 AM CITY OF BOZ. CARNEGIE 406 582 2363 P.01

allowing a code enforcement program in critical areas without having to provide service to the entire county area. It would also be advisable to allow for a jurisdictional area to be set up in growth areas, such as Big Sky, that have a large amount of construction going to provide for life safety requirements in single family dwellings when the area is not incorporated.

The cutback in funding is a serious concern to the administration of building departments. The cyclical nature of the building industry makes it difficult to react to building boom and bust periods The bill as proposed puts building departments on a six month cycle which is totally unacceptable Boom and bust cycles don't go in six month cycles in this state I would suggest a time frame of at least 12 months for a reserve fund in order to keep consistency within building departments and keep from laying off trained building department staff.

The bill, as written, would be quite hard for the Building Codes Bureau to administer in it's dealings with certified jurisdictions. Some latitude should be given to the Bureau to remediate problems within certified jurisdictions rather than just decertifying them. A set time period for compliance, a probationary period or some other reasonable process to "fix" the problem instead of destroying a functioning system is necessary I feel.

I would also suggest expanding the method of certifying inspectors to include the following: International Conference of Building Officials, Council of American Building Officials, International Code Council, International Association of Electrical Inspectors and International Association of Plumbing and Mechanical Officials. These are the associations that write the uniform codes adopted in this state and have a reputable program of certifications for inspectors and building officials.

In closing let me say that the issue here is NOT money and control, as some would suggest, the issue is life safety for the citizens of Montana. Please take a closer look at this bill before it goes to the floor for a vote and revise it to be reasonable and proper for ALL people concerned, especially looking at the life safety for the public affected.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 11
DATE 3-13-97
BILL NO. HB 388

H.B. 388

The City of Great Falls is very concerned with the long term effects of H.B. 388. H.B. 388 not only limits cities and towns from enforcing building code compliance on the fringes of their boundaries, but also exempts industrial process facilities, sugar beet refineries, primary metal smelters and refineries, gas processing facilities, pulp and paper mills, cement plants, lime and mineral plants, sulfur plants, chemical plants, power plants and fertilizer manufacturing plants from State building code compliance.

If cities do not operate outside their boundaries, will the State step up and ensure citizen safety? No! The State of Montana has already exempted residences up to five dwelling units from complying with the State building code. This means outside municipal jurisdiction you have small motels, bed and breakfast establishments, four plexes, duplexes and single family residences being built without plan review or inspections.

Montana is experiencing significant growth and much of it is occurring on the fringes of our cities. If cities are not allowed to enforce building codes on these developments and the State code already has exempted residential structures, we see this as disastrous for the future of Montana. We see this Bill as an incentive to building outside municipal boundaries which will result in urban sprawl affecting our farm lands, open spaces, and other scenic landscapes that make Montana.

Without plan review and inspections we see shoddy developments popping up. Montana will be left to deal with the rural slums this Bill will create.

And what about consumer protection? Our families sink all they can into buying their homes. If these homes are constructed without benefit of plan reviews and inspections, who do they go to when the foundation starts crumbling or the roof leaks after their one year warranty is up? Or can they even find the contractor?

We are concerned that growth needs to be planned and managed well if we are going to continue to enjoy the Montana we know. H.B. 388 does not allow that.

H.B. 388
Page two

Great Falls cares about the safety of its citizens and neighbors. H.B. 388 fails to provide protection for Montanans when they are most vulnerable - in their homes where they sleep and at their places of employment where they labor.

It's time to plan for the future of Montana. We urge you to defeat H.B. 388.

Respectfully Submitted:

Mayor Bob Deming

John W. Lawton, City Manager

Commissioner Joan Bennett

Cheryl Patton, Community Dev. Director

Commissioner Bill Downer

Jim Rearden, Director of Public Works

Commissioner Randy Gray

Bill Walters, City/County Planning

Commissioner John Rosenbaum

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 12
DATE 3-13-97
BILL NO. HB 388

HB388 REVISING BUILDING CODE STATUTES
CONCERNS WITH THE PROPOSED LEGISLATION

- Section 1, Subsection (10): Deletes the authority for municipalities to extend their jurisdictional area up to 4 1/2 miles from their corporate limits. The proposed change:
  - Returns the 4 1/2 mile area back to the State for enforcement of building codes.
  - Eliminates the coverage of single family dwellings through four-plexes by the building and mechanical code requirements, since the state has no authority to cover these buildings, unless a county is willing to enforce the codes county wide. This means that structural, fire life safety requirements and mechanical systems will not be inspected unless the county does so.
  - Would require all commercial and residential buildings over four units to be submitted to the State of Montana for review, unless the county is willing to take over the enforcement county wide, and thus business owners would not be allowed to deal with their local government.
- Section 2, Subsection (1)(c): Expands the exemption of coverage of refineries from the building code to include sugar beet refineries, primary metal smelters and refineries, gas and other fuel processing facilities, pulp and paper mills, cement plants, lime and mineral products plants, sulfur plants, chemical plants, power plants, electrical substations, fertilizer plants.
  - As a result of this change there will be no coverage of the industrial processing areas by the building code and thus code enforcement programs will not have any say over the structural or fire-life safety requirements for the building.
  - The results will be protection of building occupants will be left to the owners of the facilities.
  - Neighboring buildings will not be afforded the protection of the code requirements for protection of exterior walls for fire based on the distance to property lines.
  - Fire fighters will be asked to fight potential fires in the exempted buildings without being afforded the safety requirements contained in the building code.
- Section 3, Subsection (2)(ii): Only allows a local government entity to maintain a fee balance equal to 6 months of operational budget.
  - This proposed change removes a local governments authority to operate its programs as it sees fit.
  - In some smaller areas a 6 month balance is totally inadequate for them to operate a limited income program with any efficiency due to the very limited fees collected.
- Section 3, Subsection (3)(c): Allows a local government to enter into private contracts with persons outside their code enforcement jurisdiction for the purposes of providing code enforcement related services, but without the authority to enforce correction of any violations discovered.
  - No local government entity will expose itself to the liability that such an arrangement will encourage and therefore the provision will likely never be used.
  - If a local government was to provide such a service they would immediately put themselves into a potential conflict with the county or State that is enforcing the codes within the area.

- Section 6, Subsection (2): Provides for the immediate revocation of certification of a local governments certification to enforce building codes for lack of compliance with any applicable statute or rule.
    - There is no grace period provided that would allow a local government to correct program deficiencies only an immediate revocation of certification.
    - There is no way the State can take over a program from a local government without the Legislature providing additional expending authority and staffing. The result will be no enforcement of building codes in the area until staffing and funding can be approved by a regular or special session of Legislature.
- Section 6, Subsection (3): The State is required to maintain continuous oversight of the local governments code enforcement program and conduct a detailed and fully documented annual review of the same program.
    - Such a process will require additional State staffing and a funding mechanism to pay for the activity.
    - For the State to use current fees they collect to perform plan reviews and inspection of construction under their jurisdiction would not seem fair to those persons paying the fees.
- Section 6, Subsection (4): If, after a review of a local government code enforcement program, the State decides to decertify the program the take over is immediate and the local entity is not permitted to exercise any code enforcement authority over construction projects that have not been completed within their jurisdiction.
    - How will the State once again obtain the necessary funding and staffing on an immediate basis?
    - How will the State pay for the additional needs, will they charge the impacted parties another building permit fee to cover their costs?
    - The local governments do not appear to be given any grace period to correct any noted deficiencies under this section.

Support Building Safety!

Published in the public interest by

Building Officials and Code Administrators International, Inc.

International Conference of Building Officials

Southern Building Code Congress International, Inc.

BUILDING CODES

how do they help you?

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 13
DATE 3-23-97
BILL NO. HB 3228

Q. WHAT IF I WANT TO DO A BUILDING PROJECT MYSELF?

A. Building departments have pamphlets and brochures explaining in detail how to obtain permits and design and construct a safe building. Inquire in your local community.

Q. WHY SHOULD MINIMUM SAFETY CODES APPLY TO MY OWN HOUSE?

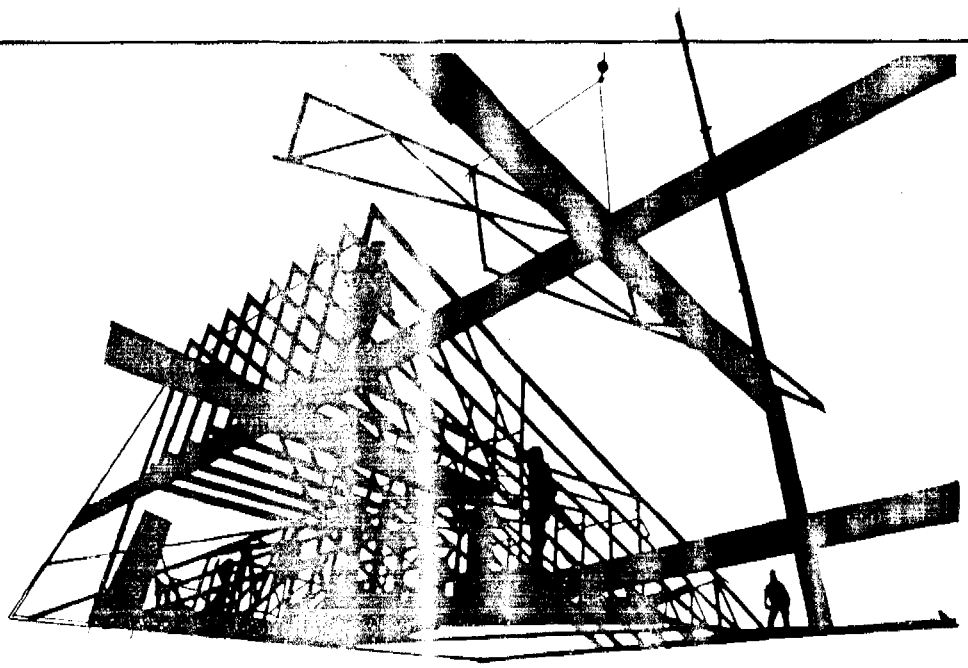
A. For several reasons:

- For your personal safety and that of your family and the guests invited into your home.
- To ensure the economic well-being of the community by reducing potential spread of fire and disease.
- For the conservation of energy.
- To protect future home purchasers who deserve a reasonable assurance the home they buy will be safe. (Did you know that a home is resold every five to seven years?

Q. WHAT'S NEW?

A. The most recent assignment to building officials comes from the need to conserve energy use in buildings. Elected officials have established definite goals in the area of energy conservation which can best be administered through the routine building regulatory system. Beyond the mere addition of insulation, energy-saving steps include new standards for appliance construction, new design concepts to conserve heat from lighting fixtures and a myriad of other approaches to minimize energy demands. Other innovations include such items as showerhead restrictors, set back thermostats and low-flush toilets. Steps have also been taken to facilitate solar heating applications and the use of other alternative energy resources.

Local building departments provide a wide range of services beyond the usual plan review and building inspection process. These range from the administration of planning or zoning laws to housing maintenance inspections, nuisance abatement and a number of other related or ancillary duties. Visit your local building department and get acquainted with the people who make it work.



Q. WHO NEEDS BUILDING CODES?

A. We all do—together in our homes, offices, schools, stores, factories or places of entertainment. We rely on the safety of structures that surround us in our everyday lives. The public need for protection from disaster due to fire, structural collapse and general deterioration underscores the need for modern codes and their administration.

Q. BUT HOW RELIABLE ARE THEY?

A. Most aspects of building construction—electrical wiring, heating, sanitary facilities—represent a potential hazard to building occupants and users. Building codes provide safeguards. Although no code can eliminate all risks, reducing risks to an acceptable level helps

Q. WHAT IS A BUILDING CODE?

A. Practically, it is the governmental or official statement on building safety. Technically, it is a compendium of laws and ordinances setting minimum safety standards and arranged in a systematic manner (codified) for easy reference. It embraces all aspects of the building construction—fire and structural items as well as the plumbing, electrical and mechanical systems

Q. WHO USES BUILDING CODES?

A. All people are impacted by a building construction project—architects and engineers, contractors and subcontractors, the manufacturers and distributors of building materials and, finally, the user or occupant of the building.

Q. WHY INSPECT A BUILDING DURING CONSTRUCTION?

A. It is the only way to independently verify that code compliance has been achieved. Did you know that before you moved into your home, office or factory, an average of ten inspections had been made to verify conformity to minimum standards affecting electrical safety and sanitation as well as structural and fire and life safety?

Q. HOW ARE SAFE BUILDINGS ACHIEVED?

A. Through proper design and construction practice and a code administration program which verifies compliance. You, as a homeowner or business owner, have a substantial investment which can be seriously jeopardized through less than complete code enforcement or compliance.

The regulation of building construction is not a recent phenomenon. It can be traced through recorded history for over 4000 years. The process evidences that people have become increasingly aware of their duty to avoid the catastrophic consequences of building construction failures.

In early America, George Washington and Thomas Jefferson encouraged the development of building regulations to provide for minimum standards that would ensure health and safety. Today, most of the United States is covered by a network of modern building regulations ranging in coverage from fire and structural safety to health, security and conservation of energy.

Public safety is not the only benefit afforded by modern codes. Architects, engineers, contractors and others in the building community can take advantage of the latest technological advances accommodated in the codes, resultant savings to the consumer.

For codes to be effective, an understanding and cooperative relationship must exist between building officials and the citizens whom they serve—homeowners, developers, urban planners and designers, as well as other members of the construction industry. Codes must therefore be responsive to government's need to protect the public. They must provide due process for all affected and they must keep pace with a rapidly changing technology which gives birth to innovative ideas. The inability of communities individually to provide such a code process is understandable, but collectively these communities can work together to develop and maintain codes. This approach has given birth to the model code system.

During the early 1900s, model building codes were authored by the code enforcement officials of various communities with key assistance from all segments of the building industry. Model codes have now become the central regulatory basis for the administration of building regulatory programs in cities, counties and states throughout the United States. They simply represent a collective undertaking which shares the cost of code development and maintenance while ensuring uniformity of regulations so that the advantages of technology can be optimized.

Building safety code enforcement has historically been accomplished by defraying the costs of administration through a system of fees relating to a specific project—a system which is self supporting. These fees are generally less than one percent of the overall cost of the building project. Public protection is thus obtained in a cost effective manner with the entire process, from plan review to field inspection, carried out in a professional manner. The system is so well developed that the true complexity of the process is obscure to many. It is for the purpose of creating awareness of this important public service that this pamphlet is provided.

For further information, contact your building department.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 14
DATE 3-13-97
BILL NO. HB 388

CITY OF MISSOULA
PUBLIC WORKS DEPARTMENT
435 Ryman Street, Missoula, Montana 59802-4297

MEMORANDUM

E-97-

TO: SENATE BUSINESS AND INDUSTRY COMMITTEE

FROM: Bruce T. Bender, Director of Public Works BTB

DATE: March 13,1997

RE: HB 388

INDIRECT COSTS

1. City of Missoula

a. Finance Director used U.S. Office of Management and Budget method.
--calculated indirect costs to be 45%
--current rate is 40%

b. Survey of four cities in Oregon and California
--indirect costs of 30% or higher
--two of these cities had national accountant firms determine factor.

2. Private Engineering Consultant Firms

a.Currently four engineering firms contracted with City of Missoula
--indirect cost factors determined in accordance with Federal Regulations
--two Missoula firms: ave. of 150% of direct salary
--two national firms: ave. of 170% of direct salary
--MDT(Montana Dept. of Transportation) use these factors for cost estimating: 125% to 160%

b.Applied to City of Missoula Building Inspection Division
--used 125% to 150% of direct salary
--calculates to 45% to 60% indirect factor

FUSSELL ENGINEERING
CONSULTING & DESIGN

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 15
DATE 3-13-97
BILL NO. HB 388

Tuesday, February 4, 1997

Representative Vicki Cocchiarella
Capitol Station
Helena, Montana 59620

RE: HB388

Dear Representative Cocchiarella:

I learned with dismay that there is an attempt to reduce the ability of our building code officials to inspect construction that just happens to be outside of our Missoula boundaries. As you know, the city limits is not representative of what is in the City and what is clearly rural.

City building inspectors are equipped to handle the quantity of construction in the urban areas since that is a basic part of their job. They are well versed in urban type development, both commercial and residential. Furthermore they are acquainted with the contractors and builders who going to be doing business in the urban area independent of which side of the City limits they are on.

The state inspectors, by contrast, cover a very large area consisting of mostly rural residential with occasional commercial businesses. Their large territory requires constant compromise between travel time and inspection time. State inspectors simply cannot provide a level of coverage required by urban development.

Therefore it is crucial for life safety and protection of the public to have urban building inspectors be responsible for urban areas regardless of political boundaries.

If anything, HB388 should be modified to extend urban building inspector territories further beyond city political boundaries than current statutes allow.

Please inform your colleagues with facts so that an erosion of public protection does not occur.

Sincerely yours,

Michael T. Fussell

Michael T. Fussell, P.E.

COMMERCIAL ○ INDUSTRIAL ○ ARCHITECTURAL ○ MAC CONSULTING ○ ADA/OSHA COMPLIANCE
131 W 1st MAIN, SUITE 6 MISSOULA, MONTANA 59802 (406)721-6066 FAX (406)721-6777 INTERNET FUS@ACS.COM

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 15 A
DATE 3-15-97
BILL NO. HB 388

2.4.1997

Business and Labor Committee
House of Representatives
State of Montana
Capitol Station
Helena, Montana 59620

Dear Business and Labor Committee,

As president of the Missoula Society of Architects I would like to join our local building officials in opposing the following sections of House Bill 388.

Section 50-60-302C

It appears to us that the proposed changes to this section will allow buildings built for human habitation to be built without code review. We feel this is a dangerous change to current Montana Code

Section 50-60-102

Requiring local building officials to be licensed in the trade in which they are inspecting will be costly and in some cases will require the firing and re-hiring of existing staff.

Please take these notes into consideration when you are attending to this bill.

Sincerely,
Jeffrey Crouch
Missoula Society of Architects

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 15 B
DATE 2-13-97
BILL NO. HB 388

January 30, 1997

House Business and Labor Committee
State of Montana Legislature
Capitol Station
Helena, MT. 59620

Re: HB-388

Dear Committee Members:

I a writing as a professional engineer working in Missoula. We have a structural engineering firm with 7 engineers, 3 CAD drafting people, and supporting staff. We are licensed in 17 states. We do considerable amount of work in California, Colorado, Utah, etc.. So, we work with building jurisdictions around the Western United States and very much appreciate their involvement in construction.

I am very concerned with House Bill 388 and the potential elimination of the 4 1/2 mile jurisdiction of city building inspection. The plans review and building inspection process is a critical aspect in insuring quality construction. The fees for the review and inspections is minimal

If the city jurisdiction is eliminated, a significant amount of construction will be completed with no inspection. Commercial inspections will revert to the State. We also deal on a regular basis with the State Building Codes Division. They are already significantly overloaded. The State inspectors are not able to complete vital, timely inspections at the present time.

I urge you to reject House Bill 388. It would be a major step backwards for the construction industry.

Sincerely,
BEAUDETTE CONSULTING ENGINEERS

Tom R. Beaudette, P.E.

BEAUDETTE
CONSULTING
ENGINEERS, INC.
211 NORTH HIGGINS, 4th FLOOR
MISSOULA, MONTANA 59802
TEL: (406)721-7315

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 15 C
DATE 3-13-97
BILL NO. HB 388

Missoula Electric Cooperative Inc.

FAX TRANSMISSION

MISSOULA ELECTRIC COOPERATIVE, INC.
1700 WEST BROADWAY
MISSOULA, MT 59802
406-721-4433
FAX: 406-549-3155

To: Bruce Bender
Fax #: 406 442 4030
From: Kirk Flynn
Subject: HB 388

Date: 2/3/97
Pages: 2 , including this cover sheet.

COMMENTS:

Missoula Electric Cooperative Inc.

1700 W. Broadway
Missoula, MT 59802
406/721-4433
FAX: 406/549-3155
1-800-352-6200

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 15 D
DATE 3-13-97
BILL NO. H 388

February 3, 1997

House Business & Labor Committee
Capitol Station
Helena, MT 59620

Dear Sirs:

House Bill 388 requiring the use of journeyman electricians and plumbers to do inspections raises numerous problems for local electric utilities.

At the present time we work with both city and state inspectors for new and retrofit electrical installations. Local inspectors for the city can usually inspect installations within a weeks time. This provides us with a definite framework for us as we work with our customers.

State inspections which occur when the inspector is in the area can present problems for us and our customers. If there is a reason the installation is red tagged then we are required to disconnect the service until the problem is corrected. This creates additional work for the utility and problems for the customer.

Safety should be the primary concern for all electrical inspections. The state system has its drawbacks with regard to safety. The present city system works well and should remain. Additional requirements without funding by the state would place an unfair burden on city government.

The present city inspectors are trained and qualified to do the necessary inspections. Inspection before the connection of electrical service by the utility prevents more electrical accidents than the present state system where inspection occurs after electrical service is connected.

Sincerely,

FROM : ROCKING M DESIGN PHONE NO. : 406 543 8647 Feb. 04 1997 03:45PM

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 15 E
DATE 3-13-97
BILL NO. HB 388

ROCKING M DESIGN
ARCHITECTURE & LANDSCAPE
2280 DUNCAN DR., MISSOULA, MT 59802 (406) 543-8647

February 4, 1997

Chairman of Business and Labor Committee
Capitol Station
Helena, MT 59620

re: House Bill No. 388

Mr. Chairman and Members of the Committee:

After reviewing the proposed amendments to Section 50-60-101, MCA, I offer the following comments for your consideration:

1. Regarding Section 1, subsections 10 and following: The jurisdictional areas of municipalities should not in any way be reduced. If anything the jurisdictional areas should be increased or some other method devised which provides for improving the code enforcement programs in the outlying areas so that the same standards are implemented uniformly throughout the state. Anything less invites substandard building practices, simply because for the majority of the construction processes in these areas, no inspection occurs.
2. Regarding Section 3, subsections 2, f and following: It is very reasonable to "ensure that all construction related fees or charges imposed and collected by the municipality or county are necessary, reasonable and uniform . . . " It is also necessary that the fees are adequate to cover the costs of implementing the code enforcement program. This may best be accomplished by allowing that fees collected only be used for the code enforcement program. However, it must be understood that a program meant to appropriately deal with current and future code enforcement issues in time of sustained growth of construction activity has needs well beyond what may be identified as direct costs. It is also wise to require an agency to be financially accountable over time. However, the information collected over a 6 month period, would not seem adequate to determine fees and would likely result in roller coaster fee schedules due at least in part to the seasonal nature of the building industry.
3. Regarding Section 6, subsection 1, c: As I understand it, inspectors are currently required to be trained and certified. I do believe that this training and certification should be in the field for which they are utilized to inspect, however, requiring them to be state-licensed as journeymen in a particular trade seems redundant and likely to increase the costs of code enforcement.
4. Regarding Section 6, subsection 2: The language concerning "provisions for prompt revocation of certification . . . " seems over generalized and restrictive. Calling for revocation of certification of an entire code enforcement program for infraction of any applicable statute or rule could result in loss of a valuable and necessary community service over a minor infraction or mistake and invites frivolous action by a disgruntled party.

I firmly believe that while specific building regulations may need to be reviewed and amended as appropriate to a particular area or application, code enforcement programs should be implemented in a uniform manner. My understanding is that the purpose of an enforcement program is not to restrict or complicate the building process but to assist the parties involved from design through construction and occupation in understanding and implementing the standards and practices they are already obligated to meet as established by law, in order to promote public health, safety and welfare. I can not help but think that the amendments proposed that I have addressed above, would be detrimental to this purpose.

I thank you for your time and consideration.
Sincerely,

Terre Mellgren, AIA
ROCKING M DESIGN

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 15 F
DATE 3-13-97
BILL NO. HB 388

architects engineers
3700 South Russell • Suite 104 • Missoula, MT • 59801 • (406) 728-9522 • Fax# (406) 728-8287

February 3, 1997

Business and Labor Committee
Capitol Building
Helena, MT 59620

Attn: Chairman:

Dear Chairman:

I understand that Representative Simon has introduced a bill that would change how construction projects would be inspected, particularly those that lie within 4-1/2 miles of city limits. After reading the bill and conferring with several of my colleagues, I have decided to write your committee to express these concerns:

1. Section 2.b(11): This particular change would take areas that lie within 4-1/2 miles of city limits out of that city's jurisdiction and make it the responsibility of the State. With State inspectors currently being spread too thin, it can be expected that they will be less responsive to requests for inspections. I foresee construction projects being completed without proper inspection.

   Consider also, that these areas (those within 4-1/2 miles of city limits) are potential candidates for annexation to those adjacent cities and that the city would have a vested interest on how these projects are constructed.

2. Section 6.1.c: This change would require inspectors to be licensed journeymen in their craft. This sounds like a good idea, however, I could see that it will be difficult to find such people, therefore putting the responsibility for inspection on the State once again. It can be expected that many projects will go un-inspected. In the various cities which I have worked, the local inspectors have done a fine job. I have less concern with their qualifications than I do with the State having the time and resources to take over the job.

In summary, I see this proposed bill as a way of letting construction projects be completed without proper inspection. My hope is that it doesn't become law.

I appreciate your consideration of my concerns.

Sincerely,

CTA Architects Engineers

Kent C. Brady, AIA

KCB:lh

j:\users\kcb\gen\bus-labr.doc

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 15 G
DATE 3-13-97
BILL NO. H 388

HORTON
ASSOCIATES
101 EAST BROADWAY SUITE 612 MISSOULA MONTANA 59802
PHONE / FAX 406/721 9908 E-mail: horton@montana.com

MEMO

Date: February 2, 1997
To: House Business and Labor Committee
Capitol Station, Helena, MT 59620
From: Dale Horton
Re: HB 388

HB 388 will weaken building code enforcement in Montana. The measure will add code enforcement work to the already overworked and understaffed State Building Codes Bureau. Building codes are critical to assure construction meets basic life safety standards, and enforcement of the building codes is best done at the local level. Removing outlying areas from the jurisdiction of a local government is inappropriate especially considering the growth occurring in Western Montana.

It is also inappropriate to require code inspectors to be licensed journeyman. This would place unnecessary hardships on local jurisdiction to find qualified inspectors. ICBO certification is a legitimate standard for building inspectors, not a journeyman's license.

Please oppose HB 388. Thank You.

Dale E. Horton, AIA

D:\Office Files\Horton Associates\HB388.doc

TOTAL P.02

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 16
DATE 3-13-97
BILL NO. HB 388

Volume 1

Chapter 1
ADMINISTRATION

SECTION 101 — TITLE, PURPOSE AND SCOPE

101.1 Title. These regulations shall be known as the *Uniform Building Code*, may be cited as such and will be referred to herein as "this code."

101.2 Purpose. The purpose of this code is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within this jurisdiction and certain equipment specifically regulated herein.

The purpose of this code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

101.3 Scope. The provisions of this code shall apply to the construction, alteration, moving, demolition, repair, maintenance and use of any building or structure within this jurisdiction, except work located primarily in a public way, public utility towers and poles, mechanical equipment not specifically regulated in this code, and hydraulic flood control structures.

For additions, alterations, moving and maintenance of buildings and structures, see Chapter 34. For temporary buildings and structures see Section 3103 and Appendix Chapter 31.

Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

Whenever in this code reference is made to the appendix, the provisions in the appendix shall not apply unless specifically adopted.

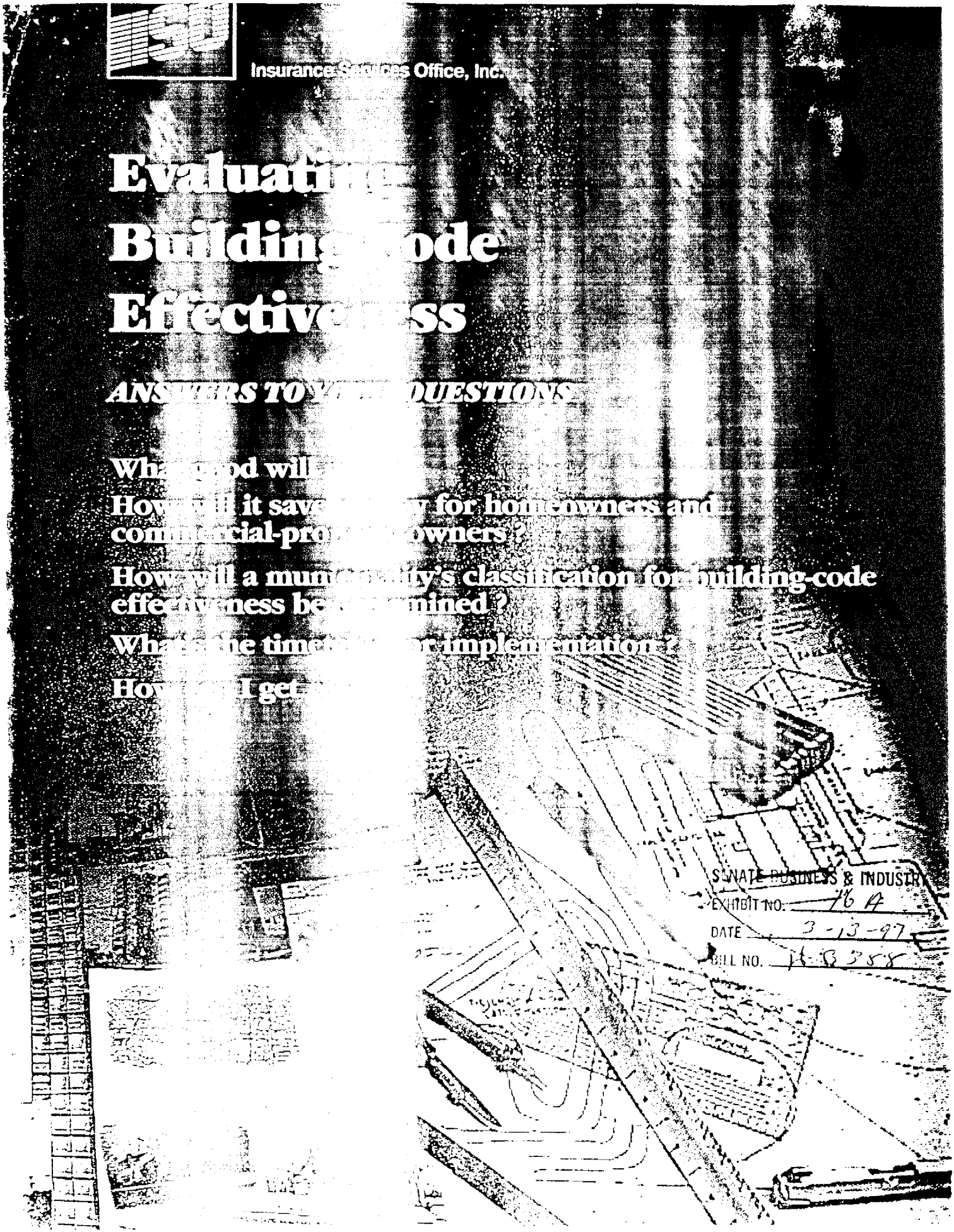
SECTION 102 — UNSAFE BUILDINGS OR STRUCTURES

All buildings or structures regulated by this code which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage or abandonment is, for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in this code are hereby designated as unsafe building appendages.

All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure set forth in the Dangerous Buildings Code or such alternate procedures as may have been or as may be adopted by this jurisdiction. As an alternative, the building official, or other employee or official of this jurisdiction as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

SECTION 103 — VIOLATIONS

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.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SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 16 A
DATE 3-13-97
BILL NO. HB 358

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How do building-code effectiveness classifications affect insurance pricing? 19

What other underwriting information will be available to insurers? 25

Evaluating Building Code Effectiveness: In Brief

- The Building Code Effectiveness Grading Schedule (BCEGS) assesses the building codes in effect in a particular community and how the community enforces its building codes, with special emphasis on mitigation of losses from natural hazards.

- The concept is simple: municipalities with effective codes that are well enforced should demonstrate better loss experience, and insurance rates can reflect that. The prospect of lessening catastrophe-related damage and ultimately lowering insurance costs provides an incentive for communities to enforce their building codes rigorously – especially as they relate to windstorm and earthquake damage.

- The anticipated upshot: safer buildings, less damage and lower insured losses from catastrophes.

- The BCEGS program will assign each municipality a BCEGS grade of 1 (best) to 10 (no recognized protection). Insurance Services Office, Inc. (ISO) will develop advisory rating credits that apply to ranges of BCEGS classifications (1-3, 4-7, 8-9, 10). Insurers will be provided the BCEGS classifications, BCEGS advisory credits and related underwriting information.

- BCEGS' introduction is being phased in countrywide over a five-year period through the year 2000, beginning in those states with high exposure to wind (hurricane) hazards, then moving to states with high seismic exposure, then continuing through the rest of the country.

- Insurers that currently receive ISO's Public Protection Classifications (PPCs), reflecting an assessment of municipalities' fire-suppression capabilities, will automatically receive BCEGS information. PPC charges are adjusted to reflect the provision of BCEGS-related information.

What?

Why?

When?

And

what do I do?

What is the Building Code Effectiveness Grading Schedule?

The Building Code Effectiveness Grading Schedule (BCEGS) assesses the building codes in effect in a particular community as well as how the community enforces its building codes.

BCEGS particularly emphasizes building-code requirements designed to mitigate losses from natural hazards. BCEGS develops a relative Building Code Effectiveness Classification for each community for insurance rating and underwriting purposes. BCEGS is similar in concept to Insurance Services Office, Inc.'s (ISO) Public Protection Classification (PPC) evaluations of municipal fire-suppression capabilities used by insurers for decades.

The concept is simple: municipalities with effective codes that are well enforced should demonstrate better loss experience, and insurance rates can reflect that. The prospect of lessening catastrophe-related damage and ultimately lowering insurance costs provides an incentive for communities to enforce their building codes rigorously – especially as they relate to windstorms and seismic damage.

Why is BCEGS needed?

BCEGS will encourage the implementation and enforcement of effective building codes, resulting in safer buildings, less damage and lower insurer losses from catastrophes.

Insured catastrophe losses of $17 billion made 1994 the second-worst catastrophe year on record, with $12.5 billion of losses due to the Northridge Earthquake. In 1992, catastrophe losses reached $23 billion, largely because of Hurricane Andrew, which resulted in $15.5 billion of insured losses.

Serious natural disasters have recently occurred with greater frequency, and high-risk areas are becoming more populous.

Windstorms. More than half the U.S. population, some 135 million people, is now living near one of our nation's coasts – the most windstorm-prone areas. Windstorms – hurricanes, tornadoes and tropical storms – account for almost 80% of the insurance industry's catastrophe losses since 1986.

Earthquakes. Ninety percent of the U.S. population lives in seismically active areas. Some 5,000 quakes can be felt in the United States each year – 400 capable of causing interior damage and 20 capable of causing structural damage. More than 6 million people live in the San Francisco Bay area, home to at least 10 active faults.

Studies of various catastrophes, including Hurricane Andrew and the Northridge Earthquake, graphically demonstrate that effective building-code enforcement reduces loss in catastrophic events.

According to *Best's Review,* experts estimate that Hurricane Andrew losses could have been reduced by 30% to 40% if building codes had been strictly enforced. A study by Factory Mutual Insurance Group shows that damage to the majority of buildings inspected after Hurricane Andrew could have been reduced by up to 55% if building codes had been strictly enforced.

After Hurricane Andrew, photos of Homestead, Florida, showed homes on one side of a street completely destroyed, while homes on the other side were still standing. Later inspections determined that the destroyed structures were built well below building-code requirements.

The California Seismic Safety Commission, after studying damage from the Northridge Quake, reported that poor quality in design, plan review, inspection and construction was encountered over and over again in the buildings damaged by the quake. In its report to California Governor Pete Wilson, the commission noted: "Although statistically rigorous data is not available to establish even rough percentages of damage resulting from a lack of code conformance, there is ample evidence that failure to follow code requirements in design,

lax plan review and shoddy construction inspection resulted in significant damage to conventional homes."

We can't control where people live. But we can encourage more effective enforcement of municipal building codes. BCEGS will provide that encouragement.

Who developed BCEGS? Where did it come from?

ISO worked closely with the Insurance Institute for Property Loss Reduction (IIPLR) to develop BCEGS. In developing the program, ISO also tapped into the expertise of the three organizations that produce model building codes – the International Conference of Building Officials, the Southern Building Code Congress International and the Building Officials and Code Administrators International – as well as information from 1,500 building-code officials. ISO pilot-tested the program in 150 communities in Florida, Georgia, North Carolina and South Carolina to further refine the grading criteria.

What are the benefits of BCEGS?

BCEGS has the potential to:

- improve building codes, building departments and code enforcement
- lead to better, more catastrophe-resistant buildings
- reduce property losses from catastrophes
- reduce the economic and social disruption that results from catastrophes' serious and widespread destruction
- improve public perception of the insurance industry by displaying the industry's commitment to address the catastrophe peril.

Can insurers actually expect this program to reduce losses, or is this really just a "politically correct" program for the industry?

Insurers are confident that in the long term this program will reduce insured property losses due to natural hazards. Insurers are also confident that the program will reduce bodily injury and save lives.

What are the marketplace implications of BCEGS?

Insurers using the rating discounts for risks eligible for the program may have a competitive advantage over insurers **not** using the discounts. Insurers using the program can highlight that point in their marketing. Also, insurers offering the discounts may seize the opportunity to market their coverages in areas with significant new-home construction where many buildings will be eligible for the discounts.

Where, when and how will BCEGS be implemented?

The introduction of BCEGS has already begun in a number of states. Full implementation is scheduled for completion by December 31, 2000. The schedule calls for earliest implementation in areas with the greatest natural-hazard potential.

The first step in the implementation process in a particular state is ISO's filing and the insurance regulator's approval/acknowledgment of the Building Code Effectiveness Grading Schedule. Once that occurs, ISO representatives will begin evaluating individual municipalities in that state, with the goal being to classify all municipalities in a state within two years. As municipalities are evaluated, the classifications will be released with updates to Public Protection Classifications, which reflect ISO's assessments of municipal fire-suppression capabilities.

Concurrent with the evaluation of the municipalities' building-code effectiveness, ISO will develop and file BCEGS advisory rating credits to be applied to loss costs for personal and commercial property coverages in each community. ISO will also file manual rules to be used with the credits. Once the filings are approved/acknowledged and become effective, insurers that have given ISO filing authorization can automatically apply the credits in any municipality where classifications have been established.

Here's the state-by-state schedule:

Phase 1 - 1995	Phase 2 - 1996	Phase 3 - 1997	Phase 4 - 1998
Florida	Alabama	Arkansas	Alaska
North Carolina	Delaware	California	Arizona
South Carolina	Georgia	Connecticut	Colorado
	Maine	Illinois	Indiana
	Maryland	Kentucky	Kansas
	Massachusetts	Missouri	Michigan
	New Hampshire	Montana	New Mexico
	New Jersey	Nevada	New York
	Rhode Island	Oregon	Ohio
	Texas	Pennsylvania	Oklahoma
		Tennessee	
		Utah	
		Vermont	
		Virginia	
		Wyoming	

Phase 5 - 1999	Independent Rating Bureau States
Iowa	Hawaii (1996)
Minnesota	Idaho (1997)
Nebraska	Louisiana (1996)
North Dakota	Mississippi (1996)
South Dakota	Washington (1997)
West Virginia	
Wisconsin	

Is this program applicable only to the natural hazards of wind and earthquake?

The program applies to all natural hazards. The hazards of wind and earthquake have been more clearly addressed in the model building codes, and experts maintain that if buildings are constructed according to requirements of the model building codes, losses from wind and earthquakes will be mitigated. If adequate codes are properly enforced, losses from other perils also should be reduced.

What determines a municipality's code-effectiveness classification?

What's a community's classification based on?

A community's classification is based on:

Administration of codes, including building-code edition in use, modification of the codes, zoning provisions to mitigate natural hazards, training of code enforcers, certification of code enforcers, incentives for outside education/certification, building officials' qualifications, contractor/builder licensing and bonding, public-awareness programs, and participation in code-development activities and the appeal process.

Review of building plans, including staffing levels; qualifications; level of detail of plan review; performance evaluations; and review of plans for one- and two-family dwellings, multi-family dwellings, and commercial buildings.

Field inspections, including staffing levels, qualifications, level of detail of inspections, performance evaluations, final inspections and issuance of certificates of occupancy.

In addition, ISO collects underwriting information, including natural hazards common to the area, number of inspection permits issued, number of inspections completed, building department's funding mechanism and date of establishment, size of the jurisdiction and population, and the fair market value of all buildings.

What is the evaluation process?

ISO will distribute detailed questionnaires to all municipalities' building officials in a state. Upon completion of the questionnaire, ISO will arrange for a trained field representative to meet at a mutually convenient time at the community site with each municipality's building officials. The ISO representative and building officials will review and verify the community's capabilities together. The

ISO representative will seek clarification and obtain supporting documentation, as necessary. The review usually takes from two to four hours. The ISO field representative also may visit construction sites with building officials. The ISO field representative will then tabulate the points "scored" on the various sections of the schedule and assign a grade from 1 (best) to 10 (no recognized protection).

What are the classifications that will be applied to a community?

Communities will be evaluated on a scale of 1 to 10, with 1 representing maximum enforcement of a model building code or local building code demonstrating equivalency to a model building code, and 10 representing no recognized protection.

Will communities in classification 10 have any incentive to improve their rating?

Any community with a classification other than 1 has these incentives to improve its classification:

- the prospect of reduced property losses, reduced injuries and loss of life, and reduced economic and social disruption caused by catastrophes
- the prospect of lower insurance rates on buildings constructed after the community improves its classification
- pride and professionalism of the community building department to be the best it can be
- good public policy.

Does a city really have incentives to raise fees or taxes to improve code enforcement — other than just so the insurance industry can cut losses?

The primary incentive for communities to commit resources to ensure proper code enforcement should be to reduce the risk of property loss, loss of life, and economic and social disruption that result

from natural catastrophes. Communities with good enforcement can expect commensurate reductions in property-insurance rates.

In most states, the program provides for premium credits only – not surcharges or increases. By legislative mandate, Florida requires positive and negative rating factors. Consequently, a 1% surcharge has been approved by the Florida Insurance Department for those communities not participating in the program. The surcharge applies to new construction only.

BCEGS is a useful, objective evaluation tool to assess the resources and support available for building-code enforcement relating to natural-hazard mitigation. The BCEGS program was developed with significant input from the three model code groups plus responses to surveys sent to more than 7,500 building officials countrywide.

With BCEGS, communities are measured against objective standards, highlighting where resources can be applied to improve performance and a community's grade in the future.

Once a community is evaluated for building codes, and a classification is established, how often will the classification be subject to change?

The plan is to reevaluate each community every five years. If ISO is notified of a change that could affect the classification before the five-year reevaluation, ISO will reevaluate the community sooner, as ISO's schedule permits.

Will a community get only one classification, or will different classifications apply to different types of properties?

Some municipalities, for example, don't adopt or enforce codes for buildings with two or fewer families, but do enforce codes for buildings with three or more families or for commercial occupancies. In such cases, separate classifications will apply. One- and two-family dwellings will be classified as 10, while all other properties will

What type of underwriting information will be available to insurers about communities?

ISO will make available underwriting reports including the following information:

- size of municipality
- population of municipality
- fair market value of all buildings
- natural hazards common to the area
- number of building permits issued
- number of inspections completed
- funding mechanism for building department
- history of building department, codes and enforcement.

When will these reports become available?

After the building-code classifications are published in the Public Protection Classification manual.

What type of underwriting information will be available to insurers about communities?

ISO will make available underwriting reports including the following information:

- size of municipality
- population of municipality
- fair market value of all buildings
- natural hazards common to the area
- number of building permits issued
- number of inspections completed
- funding mechanism for building department
- history of building department, codes and enforcement.

When will these reports become available?

After the building-code classifications are published in the Public Protection Classification manual.

What other underwriting information will be available to insurers?

How often, if ever, will the classifications change?

Each community will be reevaluated every five years, and its classification may or may not change, depending upon what is found. Classifications for existing buildings will not change as a result of a community's reclassification.

Who makes the ultimate determination if an individual property qualifies for the individual-risk certification?

Each insurer will make its own individual determination as to the conditions under which a property will qualify for individual-risk treatment.

Does the year of construction ever change for a risk?

If a risk undergoes a major renovation that requires that it be brought into compliance with current codes, thus resulting in the issuance of a new certificate of occupancy or legal equivalent, the year of construction for that risk will change.

Can an entire community be eligible for Building Code Classification 1 through a certification by a qualified inspector, or are only individual buildings that meet the appropriate criteria eligible?

A community's classification only applies to those buildings completed during or after the year the community was evaluated. In a community evaluated as class 1, only buildings constructed before the community's evaluation would need to be individually certified to also be considered class 1.

How does individual-risk certification work?

Individual properties, no matter when constructed, can be inspected by a registered design professional and, if certified to be designed and built in conformance with one of the nationally recognized building codes with respect to mitigation of natural hazards, will be given a classification of 1.

If a building is certified to be in compliance with a nationally recognized code, when does the credit apply?

Credits will only apply from the year of certification.

What about this situation: an insured's building does *not* qualify for a credit because it was built before a community received its classification, while the building next door, built by the same builder but only a year or two later, *does* qualify? How can that be explained?

There is no way to retroactively determine the effectiveness of building-code enforcement that prevailed when the older building was constructed. But the older building's owner can receive a credit, if a design professional certifies that the building was constructed in accordance with the natural-hazard provisions of a nationally recognized model building code.

Will the existing building stock be treated as classification 10?

Existing buildings are not subject to the program. Loss costs for these buildings are not affected. The program – and potential credits based on a municipality's classification – applies only to buildings receiving a certificate of occupancy in the year a community is classified or later – when code-enforcement standards are known. But individual existing properties can receive the best classification (class 1) and be eligible for associated credits if a registered design professional (architect or engineer) certifies that the structure was designed and built according to the natural-hazard provisions of a nationally recognized code.

Is there any rating impact on the existing building stock? Will rates go up for the existing building stock to balance the credits for new buildings?

No. The existing building stock is not affected.

What happens when communities are reevaluated?

When a community is first reevaluated, the new classification applies to buildings built in the year the new classification becomes effective or later. The previous classification continues to apply to buildings built from the effective date of the first classification up to the effective date of the new classification.

If an individual building in a community has been built according to a nationally recognized code, could this property get a better BCEGS classification than the community in which it is located?

Yes, through an individual-building certification process. If a registered design professional inspects the building and certifies that it is designed and built to the natural-hazard provisions of a nationally recognized code, the building will receive the highest possible classification and rating credit.

- The percentage of natural-hazard losses to property not affected by building-code enforcement (trees, fences, non-inspected utility structures, etc.).

- The percentage of natural-hazard losses **not** mitigated by building-code enforcement (building codes will not affect losses from minor events, and building codes will have minimal impact on losses from the most extremely severe catastrophes).

- The percentage of natural-hazard losses that are mitigated by building-code enforcement. ISO actuaries then apply these percentages to varying intensity levels of natural hazards using nationally recognized measuring scales such as the Saffir Simpson scale for hurricanes and the Richter scale for earthquakes. Finally, to calculate appropriate credits, ISO actuaries calculate the impact on loss costs (estimates of future claims losses), using modeling techniques and actuarial judgment.

Will rates be increased for buildings in communities classified 8, 9 or 10, for example?

No. In most states, no rate increase will be implemented with BCEGS. ISO designed it as a credit-only program.

Why do grading-schedule credits apply only to new buildings? Why not to existing buildings?

The BCEGS program is intended to promote a long-term reduction in catastrophe damage in classified communities. In most cases, staff turnover, missed code revisions and updates, or a lack of record keeping makes it impossible to measure a building department's effectiveness retroactively. So, with some exceptions, BCEGS will apply only to buildings receiving a certificate of occupancy the year a community is graded or later.

ISO will continue to gather and make available extensive underwriting information on existing buildings.

How will insurance rates be affected by BCEGS?

ISO has filed advisory rating programs, including rating credits for the Commercial Fire and Allied Lines, Businessowners, Homeowners and Dwelling lines of insurance. The credits apply to various ranges of BCEGS classifications (1-3, 4-7, 8-9, 10).

Any building constructed in the year a community is classified or later will be eligible for the program. Classifications of 9 and lower (down to 1) will receive a rating credit. A classification of 10 will receive no credit. Classifications of 1-3 will receive the highest credit. Classifications of 4-9 will receive intermediate credits.

Will separate factors apply to personal and commercial risks?

Yes. The building-code rating-credit factors are developed separately for each line of insurance.

Will there be separate factors by territory?

Yes. For each line, each territory will have its own rating-credit factor, based on loss information and other data specific to that territory.

How are the credits developed?

ISO staff gathered extensive information from wind-damage experts, seismic experts, loss-control engineers, storm-shutter manufacturers and installers, seismic retrofitters, building officials and consultants.

ISO staff also reviewed studies of Hurricane Andrew, the Northridge Earthquake and other catastrophes. Based on this research, ISO actuaries estimate:

- The percentage of all losses due to natural hazards.

How do building-code effectiveness classifications affect insurance pricing?

How flexible is the process in recognizing effective local programs that may be unique and innovative? Is there a special provision in the schedule? Are innovative initiatives considered for extra credit? Or are they not considered at all?

The BCEGS program is designed to be a performance-related program. That is, it represents the degree of the risk for property loss within a jurisdiction as a function of the community's commitment to building-code enforcement, with a major emphasis on mitigation of natural-hazard damage. Although BCEGS relies on recognized standards as the foundation for code adoption, BCEGS can recognize alternative methods of enforcing those codes. These alternative methods, if effective and equivalent to industry standards, will be recognized by the program.

Is there a cost associated with the evaluation process?

All of the costs are borne by the insurers using the information delivered by the program. Municipalities and taxpayers won't incur any costs associated with this program.

survival in a small community than a large community when both share an equal commitment to code adoption and enforcement.

How does BCEGS compare with ISO's Public Protection Classification system for classifying communities' fire-suppression capabilities?

BCEGS was modeled after the long-standing fire program, which assesses municipal fire departments and water supplies. The similarities include the classification scale of 1 to 10 – with 10 representing no recognized protection – and a reliance on recognized standards as reference points for the evaluation. The fire-protection classification system, which began in 1916, was an insurance-industry response to fire losses and has been a fundamental factor in developing insurance premiums ever since.

The main difference is that changes to a community's fire department and water supply affect the potential risk to all structures in the community, while changes to a community's building department affect the potential risk only to structures built after the change.

How long after grading occurs will the building department become aware of its classification?

Usually within 3 months.

Will there be education and publicity on BCEGS' importance?

Yes. ISO is providing information throughout the country, including presentations to numerous professional groups and outreach to and through the business and professional press and general media.

from 1997 through 2001 would receive a classification of 5, and buildings constructed in 2002 or later would receive a classification of 2.

How can a building department be best prepared for its evaluation? What resource materials should be available?

Documentation should be available that would support questionnaire answers. For example: copies of employee code certifications, training records, the building-code agency's budget, number of inspections and plan reviews performed (by type – one- and two-family dwellings, multi-family residential, and commercial and industrial structures). In addition, records on the amount of time spent on public-awareness programs will help complete the evaluation.

Are classifications established relative to the codes and level of enforcement in place at that time? Or are classifications established on an absolute scale, so that meeting certain criteria always results in the same classification?

The classification system looks at one year's worth of documentation and effectively takes a snapshot in time. The classification considers the model code in effect at that time as well as the municipality's resources and enforcement level.

These are dynamic elements. Thus, a community classified in 1995 could possibly be evaluated against a different code from a community classified in 2005. For example, in 2005, a community that retains its 1995 code rather than adopt a more stringent code prevailing in 2005 would receive a less favorable classification.

Was this schedule prepared for very large jurisdictions, unfairly penalizing some small cities?

The schedule was written to assess the risk of property loss irrespective of a jurisdiction's size. A structure does not stand any different chance of

receive the community's classification. The insurance manual's rules will advise which classification to use for a particular risk.

What happens when a community is evaluated?

When a community is evaluated, the classification automatically applies to any building receiving a certificate of occupancy in the year the classification is effective or later years. Once a classification is assigned to a building, based on the community classification in effect at the time the building is constructed, that classification will remain with that building – even if a community is subsequently reevaluated.

What happens when a community is reevaluated?

The new classification will apply to buildings receiving a certificate of occupancy in the year the new classification becomes effective and later years. It is conceivable that as a building department improves over time, a community could have more than one classification. The applicable classification for any building would depend on its certificate-of-occupancy date.

To consider a specific example: what happens to buildings that were constructed in 1997 when a town was classification 5, and then again in 2002 when the town is classified as a 2?

The classification assigned to a building will be the classification in effect in the year the building receives a certificate of occupancy. The classification that applies to a building will not change as a result of a municipality's subsequent changes in code effectiveness that result in a different classification for the municipality. The new municipal classification will apply only to buildings constructed when the new municipal classification is effective.

Thus, in this example, the buildings constructed

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 16 C
DATE 3-13-97
BILL NO. HB 3588

Hazardous Materials Classification Guide

by Larry Fluer

Includes a listing of approximately 3,500 chemicals and their hazard classifications for use with all model building and fire codes. Also included is an explanation of the fundamental issues involved in hazard classification and a C.A.S. cross-reference for over 7,700 chemical names and titles.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 16 B
DATE 3-13-97
WILL NOT HB 1558

SECTION 307 — REQUIREMENTS FOR GROUP H OCCUPANCIES

307.1 Group H Occupancies Defined.

307.1.1 General. Group H Occupancies shall include buildings or structures, or portions thereof, that involve the manufacturing, processing, generation or storage of materials that constitute a high fire, explosion or health hazard. For definitions, identification and control of hazardous materials and pesticides, and the display of nonflammable solid and nonflammable and noncombustible liquid hazardous materials in Group B, F, M or S Occupancies, see the Fire Code. For the application and use of control areas, see Footnote 1 of Tables 3-D and 3-E. Group H Occupancies shall be:

Division 1. Occupancies with a quantity of material in the building in excess of those listed in Table 3-D which present a high explosion hazard, including, but not limited to:

1. Explosives, blasting agents, fireworks and black powder.

   EXCEPTION: Storage and the use of pyrotechnic special effect materials in motion picture, television, theatrical and group entertainment production when under permit as required in the Fire Code. The time period for storage shall not exceed 90 days.

2. Unclassified detonatable organic peroxides.

3. Class 4 oxidizers.

4. Class 4 or Class 3 detonatable unstable (reactive) materials.

Division 2. Occupancies where combustible dust is manufactured, used or generated in such a manner that concentrations and conditions create a fire or explosion potential; occupancies with a quantity of material in the building in excess of those listed in Table 3-D, which present a moderate explosion hazard or a hazard from accelerated burning, including, but not limited to:

1. Class I organic peroxides.

2. Class 3 nondetonatable unstable (reactive) materials.

3. Pyrophoric gases.

4. Flammable or oxidizing gases.

5. Class I, II or III-A flammable or combustible liquids which are used or stored in normally open containers or systems, or in closed containers or systems pressurized at more than 15-pounds-per-square-inch (103.4 kPa) gage.

   EXCEPTION: Aerosols.

6. Class 3 oxidizers.

7. Class 3 water-reactive materials.

Division 3. Occupancies where flammable solids, other than combustible dust, are manufactured, used or generated.

Division 3 Occupancies also include uses in which the quantity of material in the building in excess of those listed in Table 3-D presents a high physical hazard, including, but not limited to:

1. Class II, III or IV organic peroxides.

2. Class 1 or 2 oxidizers.

3. Class I, II or III-A flammable or combustible liquids which are used or stored in normally closed containers or systems and containers or systems pressurized at 15-pounds-per-square-inch gage or less, and aerosols.

4. Class III-B combustible liquids.

5. Pyrophoric liquids or solids.

6. Class 1 or 2 water-reactive materials.

7. Flammable solids in storage.

8. Flammable or oxidizing cryogenic fluids (other than inert).

9. Class 1 unstable (reactive) gas or Class 2 unstable (reactive) materials.

Division 4. Repair garages not classified as Group S, Division 3 Occupancies.

Division 5. Aircraft repair hangars not classified as Group S, Division 5 Occupancies and heliports.

Division 6. Semiconductor fabrication facilities and comparable research and development areas in which hazardous production materials (HPM) are used and the aggregate quantity of materials are in excess of those listed in Table 3-D or 3-E. Such facilities and areas shall be designed and constructed in accordance with Section 307.11.

Division 7. Occupancies having quantities of materials in excess of those listed in Table 3-E that are health hazards including:

1. Corrosives.

2. Toxic and highly toxic materials.

3. Irritants.

4. Sensitizers.

5. Other health hazards.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 17
DATE 3-13-97
BILL NO. HB 388

Emergency Resolution # 1
Montana State Fire Chiefs' Association

Whereas Model Building Codes reduce the loss of life due to fire, smoke and toxic gases;

Whereas, Model Building Codes reduce property loss from the tragic affects of fire;

Whereas, Model Building Codes enhance the level of protection for firefighters conducting firefighting activities on the interior of structures;

Whereas, Model Building Codes directly affect insurance rates for citizen's of Montana;

Now Therefore Be It Resolved, the Montana State Fire Chiefs' Association supports the adoption and enforcement of a Model Building Code for all residential and commercial buildings in the State of Montana.

Adopted at the Montana State Fire Chiefs' Association Annual Conference, September 27 - 28, 1996

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 18
DATE 3-13-97
BILL NO. HB 388

TO: Senate Hearing - Senator Hertel/Chairman

FROM: Montana Chapter of I.C.B.O.

DATE: March 13, 1997

Amend House Bill No. 388, third reading copy

1. Page 6.
On line 4, strike: 6 months
add: 12 months

2. Page 7.
On line 19 delete: all

3. Page 7.
Following the amended language proposed by the bureau of: "a nationally recognized inspector testing and certification entity approved by the department"
Add: or have sufficient inspection work experience to be deemed qualified by and acceptable to the county or municipality.

4. Page 8.
On line 1, strike: at all times.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 19
DATE 3-13-97
BILL NO. HB 388

March 12, 1997

Honorable Senator John Hertel, Chairman
Senate Business and Industry Committee
Capitol Station
Helena, MT 59620-1702

Re: House Bill 388

Dear Senator Hertel and Committee Members:

I am opposed to House Bill 388 and ask you to consider the following:

* Building safety affects all Montana citizens, not just the ones who live in cities. We live, work, shop, worship, assemble, and recreate in buildings.

* Many buildings would drop out of the system since the state does not permit or inspect single family through four-plex dwellings.

* Local building departments are able to provide more timely and relevant service for the extraterritorial commercial construction than is the state, who will assume responsibility for commercial construction.

* Building departments provide checks for other regulations. For example: floodplain, energy, lead free solder, sewage disposal, and zoning.

* Homes are resold on average of every 7 years. Building "to code" enhances longevity, safety, resale value, and protects our major investment.

* Manufactured housing is built to a standard and inspected. Site built housing should be afforded equal protection. Construction must be inspected during process if it is to be of any value.

* The insurance industry is seeking to reduce losses by offering incentives for better code enforcement. Lack of building inspection will cost Montanans money.

* Government will be asked to pick up the check for losses. Size of check can be reduced with good planning and enforcement of minimum standards.

Requiring minimum standards of construction allows builders, buyers, realtors, sellers and anyone connected with the building industry to work toward a common known goal. Like the center striping and other traffic control signs on our highways, building codes give us direction, enhance our safety, and help reduce loss of property and life.

Vote No on House Bill 388.

Sincerely,

Craig A. Kerzman

low blowing and road plowing. ut this year, there was no room r falling behind on routine work. With good equipment, the

snow to the highway, but colder temperatures this year have allowed the snow to pile up, said Tom Bengtson, supervisor of the

this year is how much snow the valley got," he said.

Bengtson normally likes to

Bengtson said it was a "bad luck" winter for the shed, because it had shouldered heav-

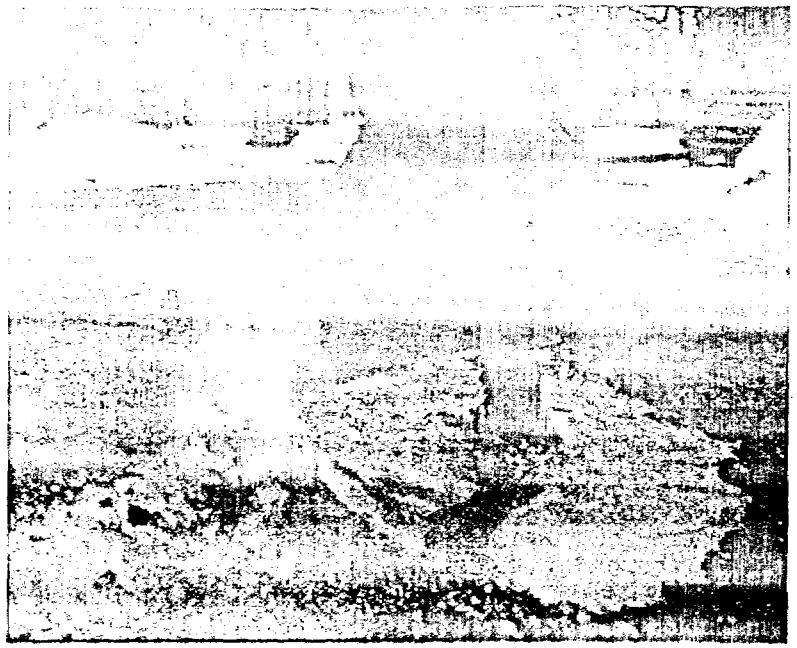
"If it wasn't for that, we would

See DEPTHS on Page A3

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 20
DATE 3-12-97
BILL NO. HB 388

All that snowfall is getting plenty expensive

- Lincoln County overwhelmed with unprecedented damage from snow.
- Major highway projects face delays.



A LETTER CARRIER demonstrates the severity of a pothole along Sixth Avenue East in Kalispell. The harsh winter will no doubt exacerbate the spring pothole problem.

[illegible] has begun taking stock of the damage that nature has inflicted.

Roads and snowplows took a beating. Untold hours were spent removing snow — either by hand, the old-fashioned way, or with mechanized equipment. And in spite of all that, roofs caved in and buildings buckled.

The total cost associated with more than 11 feet of snowfall is impossible to estimate with accuracy. But like the snowfall itself, it was a lot.

Buildings damaged

It's safe to say dozens — perhaps scores — of Flathead Valley homes, businesses and outbuildings were crushed, crunched or otherwise damaged.

And county emergency services coordinator Alan Marble warns that there may be more damage to come.

Marble said his attempts to estimate total damage have been [illegible]

[illegible] things I haven't seen myself, I would say I know of 36 buildings that sustained damage to the point they were temporarily shored up or to the point they collapsed. And that's not including garages," he said.

Nor does it include carports, decks and chimneys that were damaged by deep or sliding snow.

Marble said he knows of no county government buildings that were damaged.

A few dramatic collapses brought emergency crews to the scene. The Northwest Drywall warehouse in Kalispell caved in, and a worker luckily escaped. A hangar at Kalispell City Airport collapsed on an aircraft.

But many businesses and homeowners didn't report their damage to county officials. Dairy barns, steel sheds, Quonset huts caved in [illegible] county, Marble said.

[illegible] to get non-emergency federal assistance money from the Small Business Administration.

"I had to have at least 25 application forms filled out to get the SBA to take a look at it," he said.

But only two people submitted forms for minor repairs.

Marble said some danger remains. Roofs may have suffered structural damage during the heaviest snowloads and could give out under lighter loads later.

"I've been holding my breath, hoping that spring comes soon, for just that reason," he said.

He urged property owners who suspect their buildings may have been damaged to have them inspected.

See EXPENSIVE on Page A3

AG & TIMBER EXPO
TUESDAY, MARCH 18 - OUTLAW INN

FRONT & CENTER

100 YEARS AGO

Feb. 26 — By a sweeping general order, President Cleveland has set aside a large amount of forest lands in the northwestern states as forest reserves, and withdrawn them from settlement. In two of the reserves Flathead County is directly interested: those known as Flathead and the Lewis and Clark. It is not at all probable that the matter will be allowed to rest [illegible]

SKI MOUNTAI SPORTS
SALE

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 20A
DATE 3-13-97
BILL NO. HB 348

FROM PAGE 1

"We plan on having three major snow storms ..." said Cheryl ... Coldwell Banker ... & Co. Real Estate in Kalispell, such costs are "at least three times what we usually spend" — so far about $3,000.

Pepsi Cola distributor Dennis Strand said he's spent at least $1,500. "I usually spend about $200" for plowing around his plant on Kelly Road at the south edge of Kalispell, he said.

"I've had more wrecker calls of stuck delivery trucks this winter than in all my years since 1979," he said. "Some of them are stuck in our parking lot; there's that much snow.

"And when it melts, we have to straighten up our chain-link fence, which got bent when we pushed snow against it. I've never had that happen."

Jim Laidlaw of Jimmy Lee's Restaurant in Whitefish, said, "We've never had to physically remove snow from our lot, just pushed it to the side. This year we've had to haul it off, because it got so high no one could see our business from the highway."

Now it's a mountain behind the restaurant.

"You have to put it somewhere, and you can't dump it most places," he said. "And this is the lowest place around, so you know what's ant to happen when it all

The ... budget is about $3.1 million. There is not a specific budget item for snow removal.

There is, however, a line item for overtime; the budget allows for $70,000. That's been drained.

"We are not anticipating seeking any emergency funding," Johnson said. "The commissioners told us in advance there would not be any."

Winter, however, is not over yet. And now it's the season when potholes start appearing in county roads. Plowing costs must be made up in different areas of the roads budget.

"It's going to mean less money for repairs," Johnson said. "So far, it has not hurt us severely. We are still in fair shape."

But he is seeing more potholes than he anticipated. Slumps and mudslides are still a big question and will depend on the speed of spring runoff.

Plowing the North Fork Road has been particularly problematic because of repeated, heavy dumps of snow north of Columbia Falls.

"We are there at least every day, but it doesn't even look like we've been there at all," said Johnson.

Plows have also been suffering greater-than-average wear-and-tear. Three plows have been damaged ... pared with other areas of the state, said Rich ... Highway ...

... Trucks had to be hired to remove snow from stretches of highway that were buried by snowslides.

"We had snowslides in Thompson Falls, where we never had them before," he said.

Less paving ahead

More snow on city streets this winter means less paving in the coming summer.

Every unanticipated $10,000 spent on snow removal represents one less block that will be paved, said Clarence Krepps, ... city manager.

Kalispell has spent $155,000 so far this winter, three to five times the amount budgeted.

"So there will be little if any overlay this summer," Kreps said.

Much of the money went to hire dump trucks and heavy equipment to help with the heaps of snow; the rest was for overtime.

That doesn't count $12,000 spent clearing parks and the roof of City Hall, he said.

Whitefish spent about $15,000 on private hauling and another $12,000-$15,000 on overtime, said Jerry Hanson, public works director.

Of that, only about a third had ...

The district normally budgets just a few ... dollars. But costs soared ... when ...

... unusual, and costly, move of paying to haul it away.

So far, Columbia Falls has been "compensating as best we can," said business manager Susan Fleming.

By the beginning of February, not counting the expense of shoveling snow off the roofs, the elementary and high-school districts had spent more than $1,200 on plowing.

"We've tried to do a lot more of our own plowing this year," Fleming said.

The district had one well-timed break this year. It had budgeted ... to plow the privately owned road to Canyon School that the county said it wouldn't be responsible for. Then the county agreed to plow it after all.

"That helped us a lot in the elementary budget," Fleming said.

The district has shuffled funds for some summer projects to snow removal in the high-school budget, she said.

She had no figures on costs of snow removal from roofs.

Whitefish has spent about three times what it budgeted for snow removal, estimated Superintendent Dave Peters.

It has cost $18,000-$20,000, he said, and clearing roofs accounts for another $2,000-$3,000 that wasn't in the budget at all.

FREE ... School District

April 2, 1997
Comprehensive ...

"We've never had to physically remove snow from our lot, just pushed it to the side. This year we've had to haul it off, because it got so high no one could see our business from the highway."

Now it's a mountain behind the restaurant.

"You have to put it somewhere, and you can't dump it most places," he said. "And [illegible]

[illegible] least triple those of other years. We've spent more than $2[illegible] and [illegible] will hit $3[illegible]

Road budgets buried

Lost trusses and tree branches weren't the only things feeling the strain of heavy snow this winter; state and county road budgets bowed under the weight as well.

and will depend on the speed of spring runoff.

Plowing the North Fork Road has been particularly problematic because of repeated, heavy dumps of snow north of Columbia Falls.

"We are there at least every day, but it doesn't even look like we've been there at all," said Johnson.

[illegible] also [illegible]

[illegible] ice in the roads.

It's been an exceptional year for state road crews in [illegible] Montana as well.

[illegible] working long hours. We have been going through a lot of sanding materials and liquid de-icer."

Demands on resources have been extreme throughout the northwest region, from the Swan Valley to the Yaak.

"Our district was probably the hardest-hit this winter," com-

Much of the money went to hire dump trucks and heavy equipment to help with the heaps of snow; the rest was for overtime.

That doesn't count $12,000 spent clearing parks and the roof of City Hall, he said.

Whitefish spent about $15,000 on private hauling and another $12,000-$15,000 on overtime, said Hanson, [illegible]

It means there will be that much less for spring, said Hanson.

[illegible] weight of snow-removal costs.

Trustees last week approved budget amendments to plow more money into maintenance budgets that cover plowing, shoveling and building inspections.

The amendments allow the district to move about $24,000 of elementary reserves and $20,000 of high-school reserves into the general funds.

The district has shuffled funds for some summer projects to snow removal in the high-school budget, she said.

She had no figures on costs of snow removal from roofs.

Whitefish has spent about three times what it budgeted for snow removal, estimated Superintendent Dave Peters.

It has cost $18[illegible] and clearing

It looks as if the district will move some funds from summer projects, such as painting, to make up the costs, Peters said.

NOON [illegible]
Best Dress
1 P.M. Glacier W[illegible]

2 P.M. Dog [illegible]
3 P.M. (Open to A[illegible]
Chesapeak[illegible]

from West Glacier.
[illegible] services.
Tom Thompson
Stop by and see me at:
Tom Thompson
CHUCK OLSON REAL ESTATE, INC.
241 Main 752-1000

Cleaning up after a winter is a big job

DEPTHS/From A1

probably be down to a single-lane road," he said.

Equipment maintenance has been crucial, since a plow truck can rack up thousands of extremely hard miles in just a couple of months. During one storm this winter, Bengtson said, the crew tallied 1,500 miles on the 30-mile stretch of road in just 24 hours.

Bengtson wishes the public understood just how much time and resources go into winter road maintenance. By the end of February, he said, his crew had hauled and poured 5,000 cubic yards of sand — the equivalent of 625 truckloads.

"I wish the public could see what a 5,000-yard pile of sand looks like," he said.

So what's Bengtson's psychological approach to winters that may go on for six months or more?

"You have to be a full-time pessimist as far as looking ahead and always seeing the worst conditions coming," he said. "It's easy to think you're not going to get any more storms. But I guess all winter you have to be thinking your work is never done."

Superintendent choice agrees to terms

SCHOOL/From A1

"I thought the 'yes' was more definite Tuesday night than it

and long-term disability insurance outgoing superintendent Bill Cooper had. Cooper earned $74,000

tion, Watkins said.

The contract includes 20 days vacation, plus $4,000 moving

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 21
DATE 3-13-97
BILL NO. HB 388

BUTTE-SILVER BOW
OFFICE OF CHIEF EXECUTIVE
COURTHOUSE
BUTTE, MONTANA 59701

AREA CODE 406
PHONE 723-8262

March 12, 1997

The Honorable Bowman Shea
The State of Montana
Capitol Building
Helena, MT 59620

Dear Senator Bowman Shea:

This letter is submitted in opposition to House Bill No. 388, as amended. This bill will seriously affect the Building Code Program of Butte-Silver Bow.

Specific problems are as follows:

1. Section 1 of the Bill eliminates the application of building codes to the construction of certain processing facilities, plants and refineries. The elimination of Building Code Standards creates serious life safety issues.

2. To comply with cost and accounting controls proposed in Section 7, Butte Silver Bow would have to add additional account and technical staff. The reduction of a reserve fund from a 12 to 6 month operation budget is not acceptable. Permit revenues are subject to the construction economy. Governmental entities cannot anticipate permit revenues and be responsible for an effective program on a month-to-month basis.

3. Section 6 requires that inspectors be licensed or certified. This requirement places an additional cost burden and would pose compliance problems, particularly with small communities. Additionally, Section 6 provides for a larger role by the Montana Department of Commerce as the overseer of Code Enforcement.

Thank you for the opportunity to comment on House Bill 388, and your consideration.

Respectfully submitted,

Jack Lynch

Jack Lynch, Chief Executive

JL/cs

MONTANA SENATE
1997 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL

DATE 3-13-97

NAME	PRESENT	ABSENT	EXCUSED
WILL[illegible]RISHOT	X		
CAS[illegible]RSON	X		
BEA[illegible]RTH	X		
DEB[illegible]EA	X		
STEVE [illegible]EDICT, [illegible]CE CHAIRMAN	X		
JOH[illegible]EL, CH[illegible]RMAN	X		

SEN: [illegible]
wp.[illegible].mmi
CS-09

DATE 2-13 97

SENATE COMMITTEE ON Business + Industry

BILLS BEING HEARD TODAY: HB 388 - HB 399

PLEASE PRINT

Name	Representing	Bill No.	Check One: Support	Oppose
Chuck [illegible]ks	Yellowstone Ck	HB 388		✓
WJ [illegible] Kembel	Montana Technical Council	HB388		✓
Ric [illegible]	City of Billings	HB 388		✓
Paul Fiedler	City of Billings Montana State Fire Chiefs	HB388		✓
Kim [illegible]	Unifield Engineering	HB388	✓	
CRAIG [illegible]	KALISPELL BLDG DEPT	HB 388		✓
Mar [illegible]	MCMHCA	HB399	✓	
[illegible]	SELF	HB388	X	
Jim [illegible]	Building Contractor	HB388		
Don [illegible]	MT. BUILDING I.N.D. ASS.	388	✓	
John [illegible]	Butte-Silver Bow Bldg Dept	HB 388		
Bran [illegible]	Mt. Chapter ICBO	HB 388		✓
Bruce [illegible]	City of Missoula	HB 388		✓
Ste [illegible]	Dept of Comm	HB399	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REC[illegible] FEB

DATE 2 -97

SENATE COMMITTEE ON Sens. Bus + Labor

BILLS BEING HEARD TODAY: HB 388

HB 399

PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
LORN [illegible] FARM	MT. FARM BUREAU	388	X	
[illegible]	MT SULPHUR	388	X	
DAR [illegible]	ASARCO INC.	388	X	
[illegible]	MT. Wood Products Ass.	388	X	
Glen [illegible]	Richland Develop	358		✓
Gloria [illegible]	MT Psych. Assoc	399	X	
R. [illegible]	State Farm Ins	388		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

of permanent carousels, etc. Possibly it would be better if more work was done on it and brought back to the next legislature. **SEN. EMERSON** said that it would be harder each year for fairs to secure the services of carnivals and felt something should be done at this point in time. **SEN. STEVE BENEDICT** said that this bill would do nothing to relieve liability. People will still engage in lawsuits and prevail even when things are expressly stated in statute.

Substitute Motion/Vote: **SEN. MCCARTHY MOVED TO TABLE HB 267. THE MOTION CARRIED with SEN. EMERSON voting NO: 5-1**

{Tape: 1; Side: A; Approx. Time Count: 9:13 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 388

Motion: **SEN. CASEY EMERSON MOVED HB 388 BE CONCURRED IN.**

Amendments: **SEN. STEVE BENEDICT MOVED to AMEND HB 388 (EXHIBIT 1) hb038801.abc.**

Discussion: **SEN BENEDICT** said these amendments were agreed upon by the sponsor and the Department of Commerce. The first three amendments suggested by the Dept. are not included in these amendments. **Mr. Bart Campbell** said that the third amendment of those first three which were not accepted by the sponsor and had to do with the definition of the petroleum companies was worked out between one of the proponents and **REP. BRUCE SIMON** and they submitted a change which is in this set of amendments **(EXHIBIT 1)**. The third amendment is listed as the third amendment in **(EXHIBIT 1)**. **SEN. BENEDICT** in addressing the second amendment from the Dept., said that when you have a county, it is not just a county outside of the jurisdiction of the city. Everyone in the city votes for the county commissioners. So it is not like representation outside of the city. The county commissioners represent all those inside the city limits as well as those outside the city limits. And you must remember that 90% of their constituents are from within the city limits so they very well might be more concerned with the majority. Therefore, those outside the city limits really still don't have a voice. It is not like the county commissioners just represent people outside the city limits. If the city commission wants to extend those boundaries and the county commissioners have to give their approval and 90% of their constituents live within the city limits, then they will probably go ahead and go that way. This again leaves the county people without true representation. **SEN. EMERSON** said that he has seen the process in Gallatin County and the City Commissioners have used a high-handed manner and run roughshod over the people in the 4½ mile area outside the city limits. They wanted the power and the dollars that all the permits bring in. **SEN. MCCARTHY** asked about number nine and

would the word "immediately" be helpful? **Mr. Jim Brown, Dept. of Commerce, Building Codes Div.,** answered that it wouldn't necessarily help and felt there would be a number of rules proposed. **SEN. BENEDICT** suggested a conceptual amendment to put the word "immediately" in.

Vote on Amendments: **THE MOTION TO AMEND HB 388 CARRIED with SEN. SHEA voting NO: 5-1**

Amendments: **SEN. MCCARTHY MOVED TO AMEND HB 388 with the amendment number 2, numbered page 2, proposed by the Dept. (EXHIBIT 2).**

Discussion: **Mr. Brown** explained the amendment. The problem addressed is that the people in the 4½ mile radius outside the city limits could not vote for the city commissioners or those elected officials who made rules that affected them. This amendment they felt was a solution to this problem because it would require that an extended jurisdiction would only be allowed by written consent of the county commissioners and those persons in that 4½ mile radius to vote for the county commissioners thereby being represented. He did not feel that most of the nine certified cities at this time that have extended jurisdictions would give this written consent. **SEN. BENEDICT** strongly disagreed with that statement. That is a speculation and he knows two jurisdictions right now who would go for it and they are Missoula and Billings. **Mr. Brown** said that might be correct, but he was basing his comment on past contacts. Missoula expressed an interest in going countywide, but under current law, they said that a certified city with an extended jurisdiction in place and the county becomes certified, whoever is there first gets it. So if Missoula County becomes certified, they wouldn't have been able to push Missoula out of that 4½ mile area. He knows that approximately 50% of Missoula's income comes from that extended jurisdiction area. If Missoula County would be able to push Missoula out of that extended area under this amendment, it would become a countywide situation and very agreeable to them. In Yellowstone county, he was not certain how they felt. **SEN. EMERSON** said that this is totally unacceptable because once that permission is given, then two or four years later, they would then, in order to protest anything the city decided, have to go to the county commissioners and tell them to take their consent away. That would be hard to do and they would be back in the same boat. **SEN. WILLIAM CRISMORE** asked if this is what happened in Flathead County. **Mr. Brown** said that with a bit of history on that he would give his opinion. Several years ago the city applied for approval to the state to extend their jurisdiction another mile. A hearing was held with much opposition to the application but the opposition centered around having the city versus the county jurisdiction. Flathead County said they were interested in having jurisdiction over the county for building codes. The Dept. of Commerce turned down the city and approved Flathead County. The County was in the business for about one year and the voters threw out the program about 7 to 1. The

county residents as a whole were not interested in getting building permits for their single family dwellings and were not interested in having the County do the inspection, etc. He also felt that Flathead County would not give their permission to Kalispell for this jurisdiction. **SEN. HERTEL** asked that without this amendment, is it strictly up to the state to take care of all this? **Mr. Brown** said that without this amendment, there are two choices. The county would have to go in and take over the area and that means the entire county, not just a portion. The other option would be for the state to go in and take on the permits and code enforcements that was previously done by the certified city. The state does cover the residential buildings for plumbing and electricity. **SEN. HERTEL** feels that if the state takes over, the expense would be tremendous. **SEN. EMERSON** disagreed. The fees for building permits will come to the state and will cover the expenses. **SEN. BENEDICT** asked about the $1 million in the building codes account to offset the extra expense. **Mr. Brown** said right now, yes there is, but who knows what is just down the road. **SEN. BENEDICT** inquired if the money going to the cities would not now go to the state? **Mr. Brown** said yes and generally those fees would cover the cost to the state. **SEN. BENEDICT** said then wouldn't that be revenue neutral? **Mr. Brown** said not if you count the fact that additional people would be required. **SEN. BENEDICT** again said that with the additional money, that money would cover the additional people and work. **Mr. Brown** finally said that yes, the additional money would cover the additional people. **SEN. EMERSON** said to remember that the cities were making a big profit on this and surely the state could at least cover the expenses and not need additional revenue from the taxpayers. Therefore it would be revenue neutral.

Vote on Amendment: **THE MOTION TO AMEND HB 388 CARRIED with SENATORS BENEDICT AND EMERSON voting NO: 4-2**

Amendments: **SEN. SHEA MOVED TO AMEND HB 388 (EXHIBIT 3).**

Discussion: **SEN. SHEA** explained the amendments. **SEN. EMERSON** disagreed with number 1 of these amendments and wanted to segregate this one.

Substitute Motion/Vote: **SEN. EMERSON MOVED TO SEGREGATE #1 FROM #2, 3 AND 4. THE MOTION FAILED with SENATORS HERTEL, CRISMORE, MCCARTHY AND SHEA voting NO: 2-4**

Vote on Amendment: **THE MOTION TO AMEND HB 388 CARRIED with SENATORS BENEDICT AND EMERSON voting NO: 4-2**

{Tape: 1; Side: B; Approx. Time Count: 9:52 AM; Comments: N/A.}

Motion/Vote: **SEN. BENEDICT MOVED HB 388 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. BENEDICT WILL CARRY.**

{Tape: 1; Side: B; Approx. Time Count: 10:01 AM; Comments: A 10 MINUTE BREAK WAS TAKEN.}

EXECUTIVE ACTION ON HB 543

Motion: SEN. DEBBIE SHEA MOVED HB 543 BE CONCURRED IN.

Discussion: Two different sets of amendments were discussed. One set was submitted from **Mr. Brooks**, the Montana Collision Repair Specialists **(EXHIBIT 4) hb054301.abc.** Their position is still the same: they oppose the bill if the amendments are not included. The second set was prepared by **GREG VAN HORSSEN (EXHIBIT 5) hb054302.abc. SEN. BENEDICT** asked which legislator asked for these amendments. **Mr. Campbell** said no legislator. **REP. SCHMIDT** had provided a letter responding to these amendments and she said that in practice these amendments strengthen the bill. The timing of the amendments coming in so late in the process is awkward. **SEN. BENEDICT** stated that since these amendments were not requested by a legislator, the amendments should not be considered. He would like to see the bill move forward without consideration of the amendments **(Exhibit 4)**. Maybe the committee should look at the State Farm amendments and wait a couple of years for further refining. He had spoken with **Mr. Campbell** concerning this set of amendments and were put together at his request.

Amendments: SEN. BENEDICT MOVED TO AMEND HB 388 (EXHIBIT 5) hb054302.abc.

Vote on Amendments: THE MOTION FAILED with SENATORS SHEA, MCCARTHY AND CRISMORE voting NO: 3-3

Substitute Motion/Vote: SEN. BENEDICT MOVED TO TABLE HB 543. THE MOTION FAILED with SENATORS MCCARTHY, SHEA AND CRISMORE voting NO: 3-3

Vote: THE MOTION THAT HB 543 BE CONCURRED IN CARRIED with SENATORS EMERSON AND HERTEL voting NO: 4-2

{Tape: 1; Side: B; Approx. Time Count: 10:21 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 541

Motion/Vote: SEN. WILLIAM CRISMORE MOVED HB 541 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. CRISMORE WILL CARRY.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3-25-97
BILL NO. HB 388

Amendments to House Bill No. 388
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell
March 19, 1997

1. Title, line 10.
Following: "AND"
Insert: "TO"

2. Title, line 11.
Strike: "PROVIDING" through "DATE"

3. Page 3, line 23 through page 4, line 2.
Strike: "facilities" on line 23, page 3 through "beverages" on line 2, page 4
Insert: "shipping vessels, and equipment and process-related structures located outside of another structure occupied on a regular basis by employees or the public"

4. Page 4, line 15.
Following: "."
Insert: "For the purposes of this subsection (2)(c), the phrase "existing and in the course of construction" refers to the construction of a building until all necessary building permits have been obtained and the municipality or county has issued formal written approvals or has issued a certificate of occupancy for the building."

5. Page 4, line 21.
Strike: "THE INTERNATIONAL COUNCIL OF BUILDING OFFICIALS"
Insert: "a nationally recognized entity for testing and certification of inspectors that is approved by the department"

6. Page 5, line 23.
Strike: "willful violation"
Insert: "refusal or failure to comply"

7. Page 6, line 6.
Following: "."
Insert: "The department may allow a county or municipality a reasonable amount of time, not to exceed 6 months, to correct identified code enforcement program deficiencies, unless the deficiencies constitute an immediate threat to the public health, safety, or welfare, in which case the department may require immediate correction. Failure to correct deficiencies within the time set by the department is grounds for immediate decertification of the code enforcement program. Continued operation of a county or municipal code enforcement program in violation of a

r to correct deficiencies may be enjoined or
it to it of mandamus by a judge of the district
risdiction in which the county or
located."

8. Pa line
Strik "conduct"
Insert "enquire"
Strik "review"
Inser port a local government with a certified code
gram"

9. Pa Lin
Foll
Inse the annual report identifies compliance
epartment shall conduct an onsite

10. P lines and 8.
Strik "by" on e 7 through "over" on line 8
Inser retains responsibility for completion of inspections
and issuance certificates of occupancy on any"

11. Lin
Follo "proj ."
Inse permitted by the local government, unless the
for decertification is directly related to the
ion ealth, safety, and welfare of the public"

12. fo g line 8.
Inser) If ocal government voluntarily decertifies its
enforcement program, the department must be given
itten notification of the intended decertification at
least 90 days rior to the date of decertification. The
t retains the responsibility for completion
and issuance of certificates of occupancy on
construction projects permitted by the local
r to decertifying its code enforcement

13. Lin
Strik tion its entirety

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 3-25-97
BILL NO. HB 388

AMEND HOUSE BILL NO. 388, THIRD READING COPY, AS AMENDED

1. Page 2, line 19.
Following: "(1)"
Insert: "(a)"
2. Page 2, line 20.
Following: "municipality"
Strike: the remainder of lines 20 through 27 in their entirety
Insert: "unless the area is extended at the written request of a municipality.
(b) Upon request of a municipality with the written consent of the county, the department may approve extension of the jurisdictional area to include:
(i) all or part of the area within 4 ½ miles of the corporate limits of a municipality;
(ii) all of an unplatted subdivision which is partially within 4 ½ miles of the corporate limits of a municipality; and
(iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, which is partially within 4 ½ miles of the corporate limits of a municipality.
(c) Distances shall be measured in a straight line on a horizontal plane."

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 3-25-97
BILL NO. HB 388

TO: Senate Hearing - Senator Hertel/Chairman

FROM: Montana Chapter of I.C.B.O.

DATE: March 25, 1997

Amendments to Bill No. 388, third reading copy

1. Page 1.
Line 4, strike: 6 months
and 12 months

2. Page 1.
Line 17, strike: all

3. Page 2.
Following the amended language proposed by the bureau of: "a nationally recognized inspector testing and certification entity approved by the department"
Add: or have sufficient inspection work experience to be deemed qualified by and acceptable to the county or municipality.

4. Page 2.
Line 13, strike: at all times.

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill 388 (third reading copy -- blue), respectfully report that House Bill 388 be amended as follows and as so amended be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 10.
Following: "AND"
Insert: "AN"

2. Title, line 11.
Strike: "~~;~~" through "DATE"

3. Page 2, line 10.
Following: "~~(a)~~"
Insert: "(a)"

4. Page 2, line 20.
Following: "municipality"
Insert: "unless the area is extended at the written request of a municipality.

(b) Upon request of a municipality with the written consent of the county in which the municipality is located, the department may approve extension of the jurisdictional area to include:

(i) all or part of the area within 4 1/2 miles of the corporate limits of a municipality;

(ii) all of any platted subdivision that is partially within 4 1/2 miles of the corporate limits of a municipality; and

(iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, that is partially within 4 1/2 miles of the corporate limits of a municipality.

(c) Distances must be measured in a straight line on a horizontal plane."

5. Page 3, line 23 through page 4, line 2.
Strike: "facilities" on line 23, page 3 through "beverages" on line 2, page 4

Amd. Coord.
Sec. of Senate

SEN. BENEDICT
Senator Carrying Bill

651731SC.SRF

Insert: "piping, vessels, and equipment and process-related structures located outside of another structure occupied on a regular basis by employees or the public"

6. Page 5, line 19
Following: "."
Insert: "For the purposes of this subsection (2)(c), the phrase "during construction" refers to the construction of a building until all necessary building permits have been obtained and the municipality or county has issued final written approvals or has issued a certificate of occupancy for the building."

7. Page 6, line 4.
Strike: "6"
Insert: "12"

8. Page 7, line 1
Strike: "al"

9. Page 7, line 11.
Strike: "THE INTERNATIONAL COUNCIL OF BUILDING OFFICIALS"
Insert: "a nationally recognized entity for testing and certification of inspectors that is approved by the department or has sufficient inspection work experience to be considered qualified by and acceptable to the county or municipality"

10. Page 7, line 25.
Strike: "lack of compliance"
Insert: "refusal or failure to comply"

11. Page 7, line
Following: "."
Insert: "The department may allow a county or municipality a reasonable amount of time, not to exceed 6 months, to correct identified code enforcement program deficiencies, unless the deficiencies constitute an immediate threat to the public health, safety, or welfare, in which case the department may require immediate correction. Failure to correct deficiencies within the time set by the department constitutes grounds for immediate decertification of the code enforcement program. Continued operation of a county or municipal code enforcement program in violation of a department order to correct deficiencies may be enjoined or subject to a writ of mandamus by a judge of the district court in the jurisdiction in which the county or municipality is located."

12. Page 8, line 1.
Strike: "at all times"

13. Page 8, line 2.
Strike: "conduct"
Insert: "require"
Strike: "review"
Insert: "report from a local government with a certified code enforcement program"

14. Page 8, line 4.
Following: "."
Insert: "If review of the annual report identifies compliance problems, the department shall immediately conduct an onsite evaluation."

15. Page 8, lines 7 and 8.
Strike: "may" on line 7 through "over" on line 8
Insert: "retains the responsibility for completion of inspections and issuance of certificates of occupancy on any"

16. Page 8, line 8.
Following: "projects"
Insert: "previously permitted by the local government, unless the reason for the decertification is directly related to the protection of health, safety, and welfare of the public"

17. Page 8, following line 8.
Insert: "(5) If a local government voluntarily decertifies its code enforcement program, the department must be given written notification of the intended decertification at least 90 days prior to the date of decertification. The local government retains the responsibility for completion of inspections and issuance of certificates of occupancy on any in-progress construction projects permitted by the local government prior to decertifying its code enforcement program."

18. Page 8, line 11.
Strike: section 7 in its entirety

-END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON HOUSE BILL 388

Call to Order: By **CHAIRMAN WILLIAM CRISMORE**, on April 16, 1997, at 9:15, in Room 104.

ROLL CALL

Members Present:
Rep. H.S. "Sonny" Hanson (R)
Rep. Bruce T. Simon (R)
Rep. Diana E. Wyatt (D)
Sen. William S. Crismore (R)
Sen. C.A. "Casey" Emerson (R)
Sen. Debbie Bowman Shea (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division
Elaine Benedict, House Committee Secretary

EXECUTIVE ACTION ON HB 388

Sponsor: **REP. H.S. "SONNY" HANSON, House District 9, Billings.**

Opening Statement by Sponsor:

EXHIBITS 1, 2, 3 & 4. REP. HANSON.
{Tape: 1; Side: A; Approx. Time Count: 1.1; Comments: None.}

Amendments: Item 1 of Exhibit 3.

Motion: **REP. HANSON MOVED AMENDMENT 1 OF EXHIBIT 3 DO PASS.**
{Tape: 1; Side: A; Approx. Time Count: 2.4; Comments: None.}

Informational Testimony:

Peter Blouke, Director of Department of Commerce.
{Tape: 1; Side: A; Approx. Time Count: 4.6; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 6.2; Comments: None.}

Informational Testimony:

Alec Hanson, League of Cities and Towns.
{Tape: 1; Side: A; Approx. Time Count: 7.6; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 9.4; Comments: None.}

Informational Testimony:

Mr. Hanson.
{Tape: 1; Side: A; Approx. Time Count: 14.3; Comments: None.}

REP. HANSON.
{Tape: 1; Side: A; Approx. Time Count: 16.2; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 17.1; Comments: None.}

Vote: **Motion carried with REP. BRUCE SIMON and SEN. CASEY EMERSON voting no.**
{Tape: 1; Side: A; Approx. Time Count: 20.6; Comments: None.}

Amendments: Item 2 of Exhibit 3.

Motion: **REP. HANSON MOVED THAT AMENDMENT 2 OF EXHIBIT 3 DO PASS.**
{Tape: 1; Side: A; Approx. Time Count: 21.2; Comments: None.}

Vote: **Motion carried unanimously.**
{Tape: 1; Side: A; Approx. Time Count: 22.7; Comments: None.}

EXHIBIT 5. Bart Campbell, Legislative Services Division.

Amendments: 3 and 4 of Exhibit 5

Motion: **REP. HANSON MOVED THAT AMENDMENTS 3 AND 4 OF EXHIBIT 5 DO PASS.**
{Tape: 1; Side: A; Approx. Time Count: 23.3; Comments: None.}

Informational Testimony:

Jerry Driscoll, Representing Conoco Inc. and also speaking on behalf of Tom Ebzery with Exxon.
{Tape: 1; Side: A; Approx. Time Count: 26.0; Comments: None.}

Don Allen, Wood Products.
{Tape: 1; Side: A; Approx. Time Count: 27.1; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 28.0; Comments: None.}

Informational Testimony:

Jim Brown, Building Codes Bureau.
{Tape: 1; Side: A; Approx. Time Count: 28.9; Comments: None.}

Mr. Allen.
{Tape: 1; Side: B; Approx. Time Count: 3.4; Comments: None.}

REP. SIMON.
{Tape: 1; Side: B; Approx. Time Count: 4.2; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: B; Approx. Time Count: 7.3; Comments: MR. ALLEN IS RESPONDENT FOR THIS PORTION OF QUESTIONING.}

Informational Testimony:

Mr. Campbell.
{Tape: 1; Side: A; Approx. Time Count: 10.8; Comments: None.}

Vote: **Motion carried unanimously.**
{Tape: 1; Side: B; Approx. Time Count: 12.1; Comments: None.}

Amendments: Items 5 and 6 of Exhibit 5.

Motion: **REP. HANSON MOVED AMENDMENTS 5 AND 6 OF EXHIBIT 5 DO PASS.**
{Tape: 1; Side: B; Approx. Time Count: 12.3; Comments: None.}

Vote: **Motion carried unanimously.**
{Tape: 1; Side: B; Approx. Time Count: 14.1; Comments: None.}

Motion: REP. SIMON MOVED THAT SENATE RECEDE FROM ITS AMENDMENT WHICH CREATED A DELAYED EFFECTIVE DATE, AND TO MAKE THE EFFECTIVE DATE OCTOBER 1.
{Tape: 1; Side: B; Approx. Time Count: 14.6; Comments: None.}

Informational Testimony:

Mr. Blouke.
{Tape: 1; Side: B; Approx. Time Count: 15.6; Comments: None.}

Vote: Motion failed 4-2.
{Tape: 1; Side: B; Approx. Time Count: 17.1; Comments: None.}

Motion: REP. SIMON MOVED TO ADOPT THE COMMITTEE REPORT.
{Tape: 1; Side: B; Approx. Time Count: 17.6; Comments: None.}

Informational Testimony:

Steve White, Bozeman, Montana.
{Tape: 1; Side: B; Approx. Time Count: 18.0; Comments: None.}

Questions From Committee and Responses:
{Tape: 1; Side: B; Approx. Time Count: 19.0; Comments: MR. BLOUKE IS ALSO A RESPONDENT DURING THIS PORTION OF QUESTIONING.}

Vote: Motion carried 5-1 with SEN. EMERSON voting no.
{Tape: 1; Side: B; Approx. Time Count: 22.5; Comments: None.}

#3

EXHIBIT 3
DATE 4-16-97
HB 388

Amendments to House Bill No. 388
Reference Reading Copy

For the Conference Committee

Prepared by Bart Campbell
April 14, 1997

1. Page 4, line 14
Strike: the first "AND"
Following: "SHOULDN'T"
Insert: ","

2. Page 4, lines 14 and 15.
Strike: "LOCATED" on line 14 through "OR" on line 15
Insert: "not regularly accessible to"

EXHIBIT 1.
DATE 4-11-97
HB 388

MONTANA
DEPARTMENT OF COMMERCE

Director's Office
1424 9th Avenue PO Box 200501
Helena, MT 59620-0501

Phone: (406) 444-3494
FAX: (406) 444-2903
TDD: (406) 444-2978

April 11, 1997

Dear Representative Simon:

We appreciate your willingness to reach a mutually agreeable compromise on certain provisions of House Bill 388. It is our understanding, based on the discussion we had with you this morning, that you are willing to limit the scope of a free conference committee on House Bill 388 to the following four issues and that we have conceptual agreement on resolution of these issues.

1. With respect to the issue of county approval of extended jurisdiction by certified cities: the county would have to approve the buildings covered, permit fees. Additionally, any future changes to the scope of coverage or would require county approval prior to implementation. In the event the county did not approve the requested change, extended jurisdiction would be withdrawn.

2. With respect to the issue of certification of plumbing and electrical inspectors: licensing or department approved certification would be required as a minimum.

3. With respect to exempted industrial process piping and structures: language will be included to clarify the specific exemptions.

4. With resect to the allocation of indirect costs charged to local code enforcement programs: the allocation would be made similar to other local government programs supported by proprietory funds.

Sincerely,

Peter S. Blouke, Ph.D.
Director

Alec Hanson
Montana League of
Cities and Towns

James Kembel
Montana Tech Council

(#1 & 2)

EXHIBIT 2
DATE 4-11e-97
HB 388

HOUSE BILL NO. 388 AS AMENDED

Amendments proposed by Department of Commerce

1. Page 3.

Following: line 1

Insert: "(1) The initial written consent by a county of an extended municipal jurisdictional area shall disclose the scope of the building codes to be enforced, the scope of the structures to be subject to the building codes and the schedule of fees to be charged for the permits. If after the initial written consent the municipality wishes to change either the scope of the building codes enforced or the scope of the structures covered, such changes must first be approved in writing by the county. Changes in the scope of building codes enforced or scope of structures covered without written county approval shall result in the rescission of the county approval of the extended municipal jurisdictional area."

Passed

2. Page 8, lines 14 and 15.

Strike: "OR HAVE SUFFICIENT INSPECTION WORK EXPERIENCE TO BE CONSIDERED QUALIFIED BY AND ACCEPTABLE TO THE COUNTY AND MUNICIPALITY"

Passed

(#4)

EXHIBIT 4
DATE 4-16-97
HB 388

AMENDMENTS TO HOUSE BILL 388
Reference Bill
April 12, 1997

page 6, line 15.

strike: "program"
insert: "proprietary funds"

page 6, 17

strike: "program"
insert: "proprietary funds"

EXHIBIT 5
DATE 4-16-97
HB 388

Amendments to House Bill No. 388
Reference Reading Copy

For the Free Conference Committee

Prepared by Bart Campbell
April 16, 1997

1. Page 3, following line 2.
Insert: "(d) The initial written consent by a county to an extended municipal jurisdiction area must disclose the scope of the building codes to be enforced, the type of structures to be subject to the building codes, and the schedule of fees to be charged for permits. If after the county's initial written consent, the municipality wishes to change either the scope of the building codes enforced or the type of structures covered, the changes must first be approved in writing by the county. Unapproved changes result in the rescission of the county approval of the extended municipal jurisdiction area."

2. Page 4, line 4.
Strike: "or"

3. Page 4, line 5.
Following: "(c)"
Strike: "industrial process"
Insert: "petroleum refineries and pulp and paper mills, except a structure classified under chapter 7, section 701, group B, division 2, and chapter 9, section 901, group H, outside of process units of the 1991 edition of the Uniform Building Code; or"

4. Page 4, line 11.
Following: "beverages"
Insert: "(c) industrial process"

5. Page 6, line 15.
Strike: "PROGRAMS"
Insert: "proprietary funds"

6. Page 6, line 17.
Strike: the first "PROGRAM"
Insert: "proprietary fund"

7. Page 8, lines 14 and 15.
Strike: "OR" on line 14 through "MUNICIPALITY" ON LINE 15

FREE CONFERENCE COMMITTEE

on House Bill 388

Report No. 1, April 16, 1997

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 388** (reference copy -- salmon) and recommend that House **Bill 388** be amended as follows:

1. Page 3, following line 2.
Insert: "(c) The initial written consent by a county to an extended municipal jurisdiction area must disclose the scope of the building codes to be enforced, the type of structures to be subject to the building codes, and the schedule of fees to be charged for permits. If after the county's initial written consent, the municipality wishes to change either the scope of the building codes enforced or the type of structures covered, the changes must first be approved in writing by the county. Unapproved changes result in the rescission of the county approval of the extended municipal jurisdiction area."

2. Page 4, line 4.
Strike: "or"

3. Page 4, line 5.
Following: "(c)"
Strike: "industrial process"
Insert: "petroleum refineries and pulp and paper mills, except a structure classified under chapter 7, section 701, group B, division 2, and chapter 9, section 901, group H, outside of process units, of the 1991 edition of the Uniform Building Code; or"

4. Page 4, line 11.
Following: "means"
Insert: "(a) industrial process"

5. Page 6, line 13.
Strike: "PROGRAMS"
Insert: "proprietary funds"

ADOPT

REJECT

AC HB 388-1

811143CC.Hgd

6. Page 6, line 17.
Strike: the first "PROGRAM"
Insert: "proprietary fund"

7. Page 8, lines 14 and 15.
Strike: "OR" on line 14 through "MUNICIPALITY" ON LINE 15

And this FREE Conference Committee report be adopted.

For the House:

Representative Emerson, Chair

Representative Clinton

Representative Platt

For the Senate:

Senator Crismore, Chair

No -

Senator Emerson

Senator Shea

HOUSE OF REPRESENTATIVE
ROLL CALL

HB 1388 Full Conference COMMITTEE

DATE 4-11-97

NAME	PRESENT	ABSENT	EXCUSED
Rep. [illegible] Hanson	X		
Rep. [illegible] Gunsch	X		
Rep. [illegible] E Wyatt	X		
Sen. [illegible] Fairmore	X		
Sen. [illegible] Anderson	X		
Sen. [illegible] ChairmanShea	X		

FILE

S. HANSON
B. SIMON
WYATT

SENATE COMMITTEE OF THE WHOLE AMENDMENT

House Bill 388
Senator DePratu

April 4, 1997 8:10 am

Mr. Chairman: I move to amend House Bill 388 (second house second reading copy -- tan).

ADOPT

REJECT

Signed: _____
Senator DePratu

That such amendments read:

1. Title, line 10.
Strike: "AND"

2. Title, line 11.
Following: "RATE;"
Insert: "AND PROVIDING A DELAYED EFFECTIVE DATE"

3. Page 3
Following: line 21
Insert: "NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 1998."

-END-

HB 388

Amendment

SENATE

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill 388 (third reading copy -- blue), respectfully report that House Bill 388 be amended as follows and as so amended be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 10.
Following: "ANP"
Insert: "; "

2. Title, line 11.
Strike: " through "STATE"

3. Page 2, line 19.
Following: "(a)"
Insert: "Unless "

4. Page 2, line 20.
Following: "municipality"
Insert: "unless the area is extended at the written request of a municipality.
(b) Upon request of a municipality with the written consent of the county in which the municipality is located, the department may approve extension of the jurisdictional area to include:
(i) all or part of the area within 4 1/2 miles of the corporate limits of a municipality;
(ii) all or any platted subdivision that is partially within 4 1/2 miles of the corporate limits of a municipality; and
(iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, that is partially within 4 1/2 miles of the corporate limits of a municipality.
(c) Distances must be measured in a straight line on a horizontal plane"

5. Page 3, line 23 through page 4, line 2.
Strike: "utilities" on line 23, page 3 through "beverages" on line 2, page 4

HB 388

Amd. Coord.
Sec. of Senate

SEN. BENEDICT
Senator Carrying Bill

SENATE

Insert: "piping, vessels, and equipment and process-related structures located outside of another structure occupied on a regular basis by employees or the public"

6. Page [illegible] line 19.
Following: "."
Insert: "For the purposes of this subsection (2)(c), the phrase "during and in the course of construction" refers to the construction of a building until all necessary building permits have been obtained and the municipality or county has issued formal written approvals or has issued a certificate of occupancy for the building."

7. Page 6 line 4.
Strike: "."
Insert: "."

8. Page 7 line 19.
Strike: "___"

9. Page 7 line 25.
Strike: "THE INTERNATIONAL COUNCIL OF BUILDING OFFICIALS"
Insert: "a nationally recognized entity for testing and certification of inspectors that is approved by the department or have sufficient inspection work experience to be considered qualified by and acceptable to the county or municipality"

10. Page [illegible] line 29
Strike: "notice of compliance"
Insert: "refusal or failure to comply"

11. Page [illegible] line 30
Following: "."
Insert: "The department may allow a county or municipality a reasonable amount of time, not to exceed 6 months, to correct identified code enforcement program deficiencies, unless the deficiencies constitute an immediate threat to the public health, safety, or welfare, in which case the department may require immediate correction. Failure to correct deficiencies within the time set by the department constitutes a basis for immediate decertification of the code enforcement program. Continued operation of a county or municipal code enforcement program in violation of a department order to correct deficiencies may be enjoined or subject to a writ of mandamus by a judge of the district court in the jurisdiction in which the county or municipality is located."

12. Page [illegible] line 1.
Strike: "[illegible]"

13. Page [illegible] line 3.
Strike: "[illegible]"
Insert: "[illegible]"
Strike: "review"
Insert: "report from a local government with a certified code enforcement program"

14. Page [illegible] line 4.
Following: "."
Insert: "If review of the annual report identifies compliance problems, the department shall immediately conduct an onsite evaluation."

15. Page [illegible] lines 7 and 8.
Strike: "[illegible]" on line 7 through "over" on line 8
Insert: "retains the responsibility for completion of inspections and issuance of certificates of occupancy on any"

16. Page [illegible] line 8.
Following: "projects"
Insert: "previously permitted by the local government, unless the reason for the decertification is directly related to the protection of health, safety, and welfare of the public"

17. Page [illegible] following line 8.
Insert: "If a local government voluntarily decertifies its code enforcement program, the department must be given written notification of the intended decertification at least 30 days prior to the date of decertification. The local government retains the responsibility for completion of inspections and issuance of certificates of occupancy on any incomplete construction projects permitted by the local government prior to decertifying its code enforcement program."

18. Page [illegible] line 10.
Strike: section 7 in its entirety

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0388, third reading

DESCRIPTION OF PROPOSED LEGISLATION:
A bill for an act defining and revising building code law terms; expanding the types of buildings exempt from building codes; expanding the duties of municipalities and counties; providing that rule changes are of significant interest to the public; changing provisions relating to certification of building codes by the Department of Commerce.

ASSUMPTIONS:
1. Passage of HB 388 will result in the nine municipalities with extended municipal building code enforcement jurisdictions (extended jurisdictions) losing authority to enforce building codes in their extended jurisdictions and the responsibility for issuing building, mechanical, plumbing and electrical permits and completing the required inspections in those lost extended jurisdictions will return to the Department of Commerce (DOC), Building Codes Bureau.
2. Elimination of the extended jurisdictions will result in an annual increase to the bureau's workload of 250 building, 200 mechanical, 800 plumbing and 900 electrical permits, with associated plan review and inspection responsibilities.
3. HB 388 requires licensed plumbers and electricians to conduct local government plumbing and electrical installation inspections on commercial installations, respectively. The bureau anticipates that an additional 12 certified local government building code enforcement programs (certified local programs) decertifying for plumbing code enforcement and five certified local programs decertifying for electrical code enforcement.
4. The certified local program decertification for plumbing and electrical code enforcement is expected to result in an annual increase to the bureau's workload of 500 plumbing permits and 400 electrical permits, with associated inspection responsibilities.
5. HB 388 requires the rigorous annual auditing of certified local code enforcement programs and limits eligible program costs and reserves and will result in an estimated 20 of certified local programs voluntarily or involuntarily decertifying, beyond those decertifying for lack of licensed plumbing and electrical inspectors.
6. State assumption of the jurisdiction and code enforcement responsibilities in the eliminated extended jurisdictional areas, in the certified local programs expected to decertify for plumbing and electrical code enforcement because of lack of licensed inspectors and the auditing requirement created by HB 388 will require an additional 9.00 FTE. The estimated need would be 6.00 FTE inspectors (two electrical, three plumbing/mechanical, and one building), grade 14, 1.00 FTE plan reviewer, grade 15, 1.00 FTE auditor, grade 13, and 1.00 FTE clerical position, grade 8, to handle the additional plan reviewing, inspecting, and auditing activities. The estimated personal services cost for the 9.00 FTE is $273,281 in fiscal year 1999.
7. Additional operating expenses are estimated at $67,238 and 6 additional vehicles will be required for the new inspectors at an estimated cost of $78,000.
8. The FTE and cost estimates included in this fiscal note assume that none of the major certified local programs, i.e., Billings, Bozeman, Missoula, Kalispell, Great Falls, Helena or Butte-Silver Bow County, will voluntarily or involuntarily decertify during the 1999 biennium. If even one of the major certified local programs decertifies or is decertified, additional inspector, plan reviewer, and clerical FTEs will be needed immediately and additional personal services, operating, and equipment costs will be incurred.
9. Revenues from the additional permitting and inspections fees are expected to be sufficient to cover the anticipated code enforcement and auditing costs.

(Continued)

1-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

BRUCE SIMON, PRIMARY SPONSOR DATE

Am. HB 388-#2

FISCAL IMPACT:

Department of Commerce/Building Codes Bureau:

	FY98 Difference	FY99 Difference
Expenditures:		
FTE	0	9.00
Personal Services	0	273,281
Operating Expenses	0	67,238
Equipment	0	78,000
Total	0	418,519
Revenues:		
Building Permit [illegible]	0	342,500
Net Impact:		
Building Codes Sec. [illegible]	0	(76,019)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. Loss of the extended jurisdiction areas will result in a substantial loss of revenue from permit fees to the Cities of Billings, Bozeman, Columbia Falls, Kalispell, and Missoula and total loss of revenues from permit fees to the Cities of Deer Lodge, Fort Benton, Miles City, and Whitefish. In total, revenue from issuance of approximately 1,000 building, 900 mechanical, 800 plumbing and 900 electrical permits will be lost annually to [illegible] cities that have extended jurisdictions.
2. Loss of certification for electrical and plumbing code enforcement for the 12 cities expected to decertify rather than comply with the requirement to have licensed electricians and plumbers doing electrical and plumbing code enforcement on commercial installations, will result in substantial annual loss of revenue from permit fees for a total of 500 plumbing and 200 electrical permits. For those cities that do not decertify, additional costs will be experienced by the requirement to hire licensed plumbers and electricians to do plumbing and electrical code enforcement.
3. Loss of permit fee revenues will result from the additional industries exempted from state and local codes enforcement, i.e., sugar beet refineries, primary metal smelters and refineries, gas and other fuels processing facilities, pulp and paper mills, cement plants, lime and mineral products plants, sulfur plants, chemical plants, power plants and fertilizer manufacturing plants.
4. If "construction-related fees or charges" include fees unrelated to building code enforcement, i.e., building, mechanical, plumbing or electrical permit fees, such as system development fees, [illegible] limitations may adversely affect local government's ability to generate revenue to maintain infrastructure.

TECHNICAL NOTES:

1. Loss of the extended jurisdiction areas may have a public health impact because approximately [illegible]0 single family dwellings in 4-plexes and less annually will no longer receive building and mechanical permits and inspections for compliance with minimum codes.
2. Because of the larger area served, state code enforcement is less efficient and inspections are less timely than local government code enforcement; therefore, loss of extended jurisdiction areas may result in less service for building owners/contractors.
3. Exemption of the 10 additional major industries from the need to comply with state and local building codes may expose employees to greater risk due to noncompliance with minimum codes and may put local fire department firefighters at risk while fighting fires in facilities that do not comply with minimum codes.
4. Exemption of the 10 additional major industries from the need to comply with state and local building codes may result in less plumber and electrician license law enforcement since such license law enforcement typically only happens during normal inspections for code compliance.
5. HB 388 contains auditing requirements which limit program eligible costs and may discourage cities, towns, and particularly counties from assuming the responsibility of local building code enforcement and may result in as many as 20-25 currently certified local code enforcement programs voluntarily decertifying.

(Continued)

6. HB 388 limits when a local building official can order a building owner to correct observed code violations. The language in HB 388 prohibits inspectors from ordering code violations corrected once construction is completed. This places a significant liability on inspectors in that they may be required to issue certificates of occupancy to buildings with known code deficiencies.
7. HB 388 appears to include local system development fees and charges in building permit program related fees because of the wording "construction-related fees or charges" in amendments to 7-60-106(2)(f), MCA, instead of using the words "building permit fees". If such system development fees (unrelated to building code enforcement) are included in the code enforcement programs budget and reserves limited to 6 months, the proposed legislation may have the effect of forcing reduction of system development fees.
8. Should a locally certified local program such as Billings, Bozeman, Missoula, Kalispell, Great Falls, Helena or Butte-Silver Bow County become decertified, the bureau will be unable to absorb the additional code enforcement workload unless allowed to hire additional inspectors, plan reviewers and clerical staff immediately.

MONTANA HOUSE OF REPRESENTATIVES
[illegible] LEGISLATURE
19[illegible] REGULAR SESSION
VOTE TABULATION

DATE: FEBRUARY 15, [illegible]97
TIME: 8:24 AM

SEQ. NO: 6.1
BILL NO: HB 388
BILL SP: SIMON

YES	NO	EXC	ABS
[illegible]9	[illegible]9	1	1

ORDER OF BUSINESS 8 3RD READING
3RD READING D/PASS

Y	ADAMS		HANSON, HS	Y	PROUSE
Y	AHNER		HANSON, M	N	QUILICI
Y	ANDERSON		HARPER	N	RANEY
Y	ARNOTT		HARRINGTON	N	REAM
Y	BANKHEAD		HAYNE	N	REHBEIN
Y	BARNETT		HEAVY RUNNER	N	ROSE
Y	BARNHART		HIBBARD	N	RYAN
N	BEAUDRY		HOLLAND	N	SANDS
N	BERGMAN		HURDLE	N	SCHMIDT
Y	BERGSAGEL		JOHNSON, J	Y	SIMON
Y	BITNEY		JOHNSON, R	Y	SIMPKINS
Y	BOHARSKI		JORE	A	SIMPSON
N	BOHLINGER		KASTEN	Y	SLITER
Y	BOOKOUT		KEENAN	N	SMITH
Y	BRAINARD		KITZENBERG	N	SOFT
N	CAREY		KNOX	N	SQUIRES
Y	CLARK		KOTTEL	Y	STORY
Y	COBB		KRENZLER	Y	STOVALL
N	COCCHIARELLA		LAWSON	N	SWANSON
Y	CURTISS		MARSHALL	N	TASH
Y	DeBRUYCKER		MASOLO	Y	TAYLOR
Y	DENNY		McCANN	Y	TREXLER
Y	DEVANEY		McCULLOCH	N	TROPILA
N	DOWELL		McGEE	N	TUSS
N	ELLINGSON		MENAHAN	Y	VICK
Y	ELLIS		MILLS	Y	WAGNER
Y	EWER		MOLNAR	Y	WALTERS
N	FELAND		MOOD	Y	WELLS
N	GALVIN		OHS	N	WHITEHEAD
N	GILLAN		ORR	N	WISEMAN
N	GRADY		PAVLOVICH	N	WYATT
N	GRIMES		PEASE	Y	ZOOK
E	*GRINDE		PECK	Y	MR. SPEAKER
N	HAGENER				

VOTED ABSENTEE: [illegible]ASE, YE[illegible].

SEQ NO. 1093
REVISION 0

APR 7 1997
1:19 PM

MONTANA SENATE
55th LEGISLATURE
1997 REGULAR SESSION

[illegible] 388
[illegible]IMON
[illegible]HIRD READING
[illegible] CONCURRED IN

[illegible]ESIDING: AKLESTAD

41 [illegible]S 9 NAYS 0 NOT VOTING 0 EXCUSED 2 PAIRED

Y	[illegible]AER	Y	HERTEL
N	[illegible]ARTLETT	Y	HOLDEN
Y	[illegible]ECK	Y	JABS
Y	[illegible]ENEDICT	Y	JENKINS
N	[illegible]ISHOP	Y	JERGESON
N	[illegible]ROOKE	Y	KEATING
Y	[illegible]URNETT	N	LYNCH
N	[illegible]HRISTIAENS	Y	MAHLUM
Y	[illegible]OLE	Y	MCCARTHY
Y	[illegible]RIPPEN	Y	MCNUTT
Y	[illegible]RISMORE	YP	MESAROS
Y	[illegible]EPRATU	Y	MILLER
Y	[illegible]EVLIN	Y	MOHL
N	[illegible]OHERTY	Y	NELSON
Y	[illegible]CK	Y	SHEA
Y	[illegible]MERSON	Y	SPRAGUE
Y	[illegible]STRADA	Y	STANG
Y	[illegible]OSTER	Y	SWYSGOOD
N	[illegible]RANKLIN	Y	TAYLOR
Y	[illegible]AGE	Y	THOMAS
Y	[illegible]LASER	Y	TOEWS
Y	[illegible]ROSFIELD	NP	VANVALKENBURG
Y	[illegible]HALLIGAN	N	WATERMAN
Y	[illegible]HARGROVE	Y	WILSON
Y	[illegible]HARP	Y	AKLESTAD.

Y=YEA N=NAY E=EXCUSED -=ABENT OR NOT VOTING
YP=PAIRED YEA NP=PAIRED NAY Y*=CENTRAL YEA N*=CENTRAL NAY

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

April 11, 1997

The Honorable Gary Aklestad
President of the Senate
State Capitol
Helena, MT 59620

Mr. President:

I am directed by the House of Representatives to inform the Senate that the House, on April 11, 1997, failed to concur with the Senate amendments to House Bill 388, and by motion, the Speaker was authorized to appoint a Free Conference Committee.

The Speaker appointed the following members:

Representative S. Hanson, Chairman
Representative Simon
Representative Wyatt

The House requests that the Senate appoint a like committee to confer on House Bill No. 388.

Sincerely,

MARILYN MILLER
Chief Clerk

3:45

tnsa

MONTANA STATE SENATE

April 14, 19[illegible]

The Honorable John Mercer
Speaker of the House
State Capitol
Helena, MT [illegible]520

Mr. Speaker:

I am directed by the Senate to inform the House of Representatives that the Senate on this day, April 1[illegible], 1997, acceded to the request of the House and authorized the President to appoint a Free Conference Committee to meet with a like committee of the House on House Bill No. 388.

The President appointed the following members:

Senator Bill Crismore, Chair
Senator Casey Emerson
Senator Debbie Shea

Respectfully,

[signature]

ROSANA SKELTON
Secretary of the Senate

RS/jf

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 4-16-97

BILL NO HB 238 SPONSOR(S)_____

TYPE

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
P O I	Alec Hansen	Helena	Cities & Towns
P O I			
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.